MONTANA LEGISLATIVE HISTORY

Chapter 328 1995

Bill H 196 S _____ Original bill & history ___C

H. Committee on Fish & Game			S. Committee on Fish & Game		
Hearing Date(s)	Jan 26	✓ C	Hearing Date(s)	Mar 09	✓ C
	Feb 02	✓ C		Mar 16	✓ C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	Feb 03	✓ C		Mar 17	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	93	0
4/03	3RD READING AMENDMENTS CONCURRED	90	6
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 363		
	EFFECTIVE DATE: 10/01/95		

HB 195 INTRODUCED BY SWANSON, ET AL.

IMPLEMENT CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE

BY REQUEST OF THE GOVERNOR

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO FISH & GAME		
1/16	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
1/26	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/08	2ND READING PASSED AS AMENDED	80	17
2/10	3RD READING PASSED	88	11
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO FISH & GAME		
3/09	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	45	4
3/29	3RD READING CONCURRED	39	8
	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	63	36
4/05	3RD READING AMENDMENTS CONCURRED	68	31
4/07	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/11	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 459		
	EFFECTIVE DATE: 04/14/95—SECTIONS 11-17		
	EFFECTIVE DATE: 10/01/95—SECTIONS 1-4, 10 & 18		
	EFFECTIVE DATE: 03/01/96—SECTIONS 5-9		

HB 196 INTRODUCED BY SWANSON, ET AL.

GENERALLY REVISE LAW RELATING TO OUTFITTERS AND GUIDES

BY REQUEST OF THE DEPARTMENT OF COMMERCE

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO FISH & GAME		
1/16	FISCAL NOTE REQUESTED		
1/21	FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/26	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/08	2ND READING PASSED AS AMENDED	55	45
2/10	3RD READING PASSED	63	37
	TRANSMITTED TO SENATE		
2/20	FIRST READING		

2/20	REFERRED TO FISH & GAME		
3/09	HEARING		
3/17	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	49	0
3/29	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE		
3/30	SIGNED BY SPEAKER		
3/30	SIGNED BY PRESIDENT		
4/03	TRANSMITTED TO GOVERNOR		
4/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 328		
	EFFECTIVE DATE: 07/01/95—SECTIONS 20, 21 & 25		
	EFFECTIVE DATE: 10/01/95—SECTIONS 1-19, 22-24 & 26		

HB 197 INTRODUCED BY EWER, ET AL.

REVISE TYPES OF INVESTMENT OF PUBLIC MONEY ALLOWED BY LOCAL GOVERNING BODIES

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO APPROPRIATIONS		
1/25	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED AS AMENDED	90	6
2/21	3RD READING PASSED	92	8
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO LOCAL GOVERNMENT		
3/09	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/29	2ND READING CONCURRED	49	0
3/30	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	90	9
4/05	3RD READING AMENDMENTS CONCURRED	87	11
4/07	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 406		
	EFFECTIVE DATE: 04/13/95		

HB 198 INTRODUCED BY AHNER

REQUIRE CRIMINAL OFFENDERS TO PAY A FEE FOR THE PREPARATION OF A PRESENTENCE INVESTIGATION

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

1/14	INTRODUCED
1/14	FIRST READING
1/14	REFERRED TO JUDICIARY
1/16	FISCAL NOTE REQUESTED
1/19	HEARING
1/23	FISCAL NOTE RECEIVED
1/23	FISCAL NOTE PRINTED
1/25	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HOUSE BILL NO. 196

INTRODUCED BY Swanson, Hibbard, Hertel, Tipton

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO OUTFITTERS AND GUIDES; CREATING THE MASTER GUIDE LICENSE; REVISING LICENSING REQUIREMENTS AND QUALIFICATIONS FOR OUTFITTERS AND GUIDES; REQUIRING SUBMISSION OF AN AREA OPERATING PLAN FOR OUTFITTERS AND ESTABLISHING A SYSTEM FOR REVIEW OF THE PLAN; REVISING DUTIES AND LIABILITIES RELATED TO OUTFITTING TO INCLUDE MASTER GUIDES; REVISING QUALIFICATIONS AND CONDITIONS APPLICABLE TO OUTFITTER-SPONSORED CLASS B-10 AND B-11 LICENSES; ALLOWING THE BOARD OF OUTFITTERS TO HIRE QUALIFIED INVESTIGATORS; GRANTING THE EXECUTIVE DIRECTOR OF THE BOARD OF OUTFITTERS AND BOARD INVESTIGATORS EX OFFICIO WARDEN STATUS; AMENDING SECTIONS 37-47-101, 37-47-201, 37-47-301, 37-47-302, 37-47-303, 37-47-304, 37-47-305, 37-47-306, 37-47-307, 37-47-341, 37-47-343, 37-47-345, 37-47-401, 37-47-402, 37-47-403, 37-47-404, 87-2-511, AND 87-1-503, MCA; REPEALING SECTIONS 37-47-102 AND 37-47-309, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted to the board of outfitters in 37-47-201 requiring the board to establish qualifications for two levels of guides and to review proposed operating area plans and changes to operating area plans.

The legislature intends that at a minimum the rules on master guide qualifications address experience, and if the board considers it appropriate, additional training and a qualifying examination to ensure that licensed master guides are qualified to safely provide services for compensation to clients of the endorsing outfitter.

The legislature intends that rules on operating area plans be directed toward a reduction in new commercial uses of areas by outfitters when the new uses will conflict with existing uses of the areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-47-101, MCA, is amended to read:

"**37-47-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at any time during the furnishing of service.

(2) "Board" means the board of outfitters provided for in 2-15-1883.

(3) "Consideration" means something of value given or done in exchange for something of value given or done by another.

~~(2)~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(5) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

~~(3)~~(6) "License year" means that period ~~commencing~~ beginning January 1 and ending December 31 of the same year.

(7) "Master guide" means a guide who has met experience, training, and testing qualifications for designation as a master guide, as set by board rule.

~~(4)~~(8) "Nonresident" means a person other than a resident.

~~(5)~~(9) "Outfitter" means any person, except a person providing services on real property that ~~he~~ the person owns for the primary pursuit of bona fide agricultural interests, who~~:~~

~~(a) engages in the business of outfitting for hunting or fishing parties, as the term is commonly understood;~~

~~(b)~~ for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service ~~for hunting or fishing parties or camping equipment, vehicles, or other conveyance, except boats,~~ for any person to hunt, trap, capture, take, ~~or~~ kill, pursue, or retrieve any varmint, predator, or game, including fish, and who accompanies ~~such a party or~~ that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or master guide in accompanying that person~~;~~.

~~(c) for consideration furnishes a boat or other floating craft and accompanies any person for the~~

~~purpose of catching fish; or~~

~~(d) for consideration aids or assists any person in locating or pursuing any game animal.~~

~~(6)~~(10) "Participant" means a person using the services offered by a licensed outfitter ~~or professional guide~~.

~~(7) "Professional guide" and "guide" mean a person:~~

~~(a) who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment; or~~

~~(b) who has contracted independently with an outfitter and who furnishes personal guiding services and facilities, transportation, or equipment that he owns in assisting a person to hunt or take game birds or fish. A guide who provides independent contractor services to an outfitter may not provide facilities, equipment, or services for overnight use.~~

~~(8)~~(11) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

NEW SECTION. **Section 2. Shuttle and rental services -- exemption.** (1) Nothing in this chapter prohibits the furnishing of shuttle or rental services as long as those services do not include in-field assistance to a customer.

(2) In-field assistance includes but is not limited to:

(a) setting up a camp;

(b) field instruction for the activity to be conducted by the customer; or

(c) other services considered to be services of an outfitter, as defined in 37-47-101.

Section 3. Section 37-47-201, MCA, is amended to read:

"**37-47-201. Powers and duties of board relating to outfitters, guides, and master guides.** The board shall:

(1) prepare and publish an information pamphlet ~~which~~ that contains the names and addresses of all licensed outfitters. This pamphlet must be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet ~~shall~~ must contain the names and addresses of only those outfitters who have a valid license for the current license year.

(2) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

(3) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

(4) establish outfitter standards, ~~and professional~~ guide standards, and master guide standards;

(5) adopt:

(a) rules of procedure;

(b) rules to administer and enforce this chapter, including ~~but not limited to~~ rules prescribing all requisite qualifications for licensure as an outfitter, guide, or master guide. ~~These qualifications~~ Qualifications for outfitters must include training, testing, experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining to outfitting, and condition and type of gear and equipment, and the filing of an operating area plan.

(c) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare ~~of those persons using the services of outfitters and for the protection of landowners, the general public, and outfitters' employees, agents, and representatives~~, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, guide, or master guide;

(d) rules specifying standards for review and approval of proposed new operating area plans or the proposed expansion of an existing operating area plan in order to determine if the proposal will increase existing use or cause an undue conflict with existing use of the area. The board may not approve a new operating area plan or the proposed expansion of an existing operating area plan if it finds that the proposal will cause an undue conflict with existing use of the area. Approval is not required when part or all of an existing operating area plan is transferred from one licensed outfitter to another licensed outfitter if the transfer will not increase existing use of the area.

(6) hold hearings and proceedings to suspend or revoke licenses of outfitters, ~~and professional~~ guides, and master guides for due cause."

Section 4. Section 37-47-301, MCA, is amended to read:

"37-47-301. License required -- services performed -- standards. (1) A person may not act as an outfitter, ~~or professional~~ guide, or master guide or advertise ~~as~~ or otherwise represent to the public that the person is an outfitter, guide, or master guide without first securing a license in accordance with the

provisions of this part.

(2) Whenever an outfitter is engaged by ~~any person~~ a participant, the outfitter shall keep and submit records as required by the board.

(3) Outfitters~~, professional~~ and guides, master guides, and ~~their~~ other employees of an outfitter may not shoot, kill, or take big game animals for or in competition with those employing them while acting ~~under employment~~ as outfitters, ~~or professional~~ guides, master guides, or employees of an outfitter.

(4) Outfitters utilizing lands under the control of the United States government shall obtain the proper permits required by the government office responsible for the area in which the outfitter intends to operate and shall comply with environmental protection standards established for these lands.

(5) Outfitters may not willfully and substantially misrepresent their facilities, prices, equipment, services, or hunting or fishing opportunities.

(6) Outfitters and their employees, agents, and representatives shall take every reasonable measure to provide their advertised services to their clients.

(7) ~~A person may not hold more than one Montana outfitter's license or hold an outfitter's license for more than one corporation, proprietorship, or partnership.~~ An outfitter may not hire or retain a guide or master guide who does not hold a current license as provided under this part.

(8) The operating area of a licensed outfitter, as set out in the outfitter's operating area plan pursuant to 37-47-304, constitutes the limit of operations for that outfitter and for any guide or master guide hired or retained by the outfitter. The conduct of outfitting outside the limits of the operating area plan is considered outfitting without a license and is punishable as provided in 37-47-344(2)."

Section 5. Section 37-47-302, MCA, is amended to read:

"37-47-302. Outfitter's qualifications. ~~Each~~ An applicant for ~~and holder of~~ an outfitter's license or ~~any~~ renewal of a license ~~shall~~ must meet the following qualifications:

(1) be ~~a person of at least~~ 18 years of age ~~who is~~ or older, be physically capable and mentally competent to perform the duties of an outfitter, and meet experience, training, and testing requirements as prescribed by ~~the~~ board rule;

(2) own or hold under written lease or represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities ~~as~~ that are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and the outfitter's clients (all equipment

and facilities are subject to inspection at all reasonable times and places by the board or its designated agent);

(3) ~~be a person who has~~ have demonstrated a respect for and compliance with the laws of any state or of the United States and all rules promulgated under those laws ~~as~~ related to ~~matters of~~ fish and game, conservation of natural resources, and preservation of the natural ecosystem without pollution of the ecosystem;

~~(4) have not been convicted or forfeited bond of $100 or more on more than one violation of this chapter or the fish and game laws or applicable regulations of any state or the United States within the past 5 years;~~

~~(5)~~ have not, at any time, practiced fraud, deception, or material misrepresentation in procuring any previous outfitter's, ~~professional~~ guide's, master guide's, or conservation license from the state of Montana;

~~(6)~~(5) have not, at any time, promulgated any false or misleading advertising relating to the business of outfitting~~;~~

~~(7) have not been finally adjudged by a court of law guilty of any substantial breach of written or oral contract with any person utilizing the applicant's services as an outfitter or professional guide during the 2 years preceding that for which the application is made;~~

~~(8) have not committed any negligent act or misconduct while acting as an outfitter or professional guide that caused a danger or unreasonable risk of danger to person or property of any client of the outfitter or professional guide during the license year immediately preceding that for which the application is made;~~

~~(9) have not, at any time, pleaded guilty to or been adjudged by a court guilty of a felony, unless civil rights have been restored pursuant to law. A person may not apply for or hold an outfitter's license during any period of time in which a sentence has been deferred or suspended for a felony.~~"

Section 6. Section 37-47-303, MCA, is amended to read:

"**37-47-303. ~~Professional~~ Guide's and master guide's qualifications.** (1) An applicant for a ~~professional~~ guide's or master guide's license ~~shall~~ must meet the following ~~requirements~~ qualifications:

(a) be ~~a person of at least~~ 18 years of age ~~who is~~ or older and be physically capable and mentally competent to perform the duties of a ~~professional~~ guide or master guide;

(b) be endorsed and recommended by an outfitter with a valid license;

(c) ~~have not been convicted or forfeited bond of $100 or more on more than one violation of this chapter or the fish and game laws or applicable regulations of the state of Montana or the United States within the past 5 years;~~

~~(d) have not committed any gross negligent act or misconduct while acting as a guide that caused an accident or injury to person or property of any client of an outfitter during the license year immediately preceding that for which the application is made;~~

~~(e) have not, at any time, pleaded guilty to or been adjudged by a court guilty of a felony, unless civil rights have been restored pursuant to law. A person may not apply for or hold a professional guide's license during any period of time in which a sentence has been deferred or suspended for a felony.~~ have been issued a valid wildlife conservation license; and

(d) possess a current cardiopulmonary resuscitation card, a first-aid card, or an equivalent card issued by a board-approved certifying agency.

(2) ~~A professional guide shall have been issued a valid wildlife conservation license.~~ In addition to the requirements listed in subsection (1), an applicant for licensure as a master guide must meet additional experience requirements, to be set by board rule, and may be required to show proof of training or pass a qualifying examination when required by board rule."

Section 7. Section 37-47-304, MCA, is amended to read:

"**37-47-304. Application.** (1) Each applicant for an outfitter's, ~~or professional~~ guide's, or master guide's license shall make application for license ~~upon~~ on a form ~~to be~~ prescribed and furnished by the board.

(2) The application for an outfitter's license ~~which shall~~ must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

(d) the experience of the applicant, including years of experience as an outfitter, ~~or professional~~ guide, or master guide; the applicant's knowledge of areas in which the applicant has operated and intends to operate~~,~~; and the applicant's ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter ~~by whom the professional guide is~~ for each guide and master guide to be employed or retained as an independent contractor stating that the ~~professional~~ guide or master guide is ~~in fact~~ to be employed ~~or retained as an independent contractor~~ by the outfitter and stating that the outfitter recommends the ~~applicant~~ guide or master guide for ~~the applicant's qualifications~~ licensure;

(f) an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(g) a statement of the maximum number of ~~guests~~ participants to be ~~taken~~ accompanied at any one time;

(h) the written approval of the appropriate agency or landowner on whose lands the applicant will provide services or establish hunting camps~~.~~; and

(i) an operating area plan that specifies the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

(v) the proposed service, including the type of game sought;

(vi) the name of the agency granting use authority; and

(vii) other means of identifying boundaries as established by board rule.

~~(2)~~(3) Applications for an outfitter's license must be in the name of an individual person only. Applications involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. ~~Any~~ A license issued pursuant to this part must be in the name of that person. The license must specifically state that the license is issued for the use and benefit of the named corporation, proprietorship, or partnership involved. Any revocation or suspension of a license is binding upon the individual person and the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

~~(3)~~(4) Application must be made to and filed with the board.

~~(4)~~(5) Only one application for an outfitter's license may be made in any ~~one~~ license year. If ~~any~~

an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 8. Section 37-47-305, MCA, is amended to read:

"**37-47-305. Outfitter's examination.** Each applicant for an outfitter's license ~~shall~~, after meeting the experience and training specifications and other qualifications set by this chapter or rules adopted pursuant to this chapter, is entitled to take and must pass a standard examination administered by the board or its agent. The examination must require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of ~~persons employing the services~~ participants. The examination must test the applicant's knowledge of subjects that apply to the type of license applied for and may include the following subjects:

(1) federal and state fish and game laws and regulations;

(2) practical woodsmanship;

(3) general knowledge of big game;

(4) field preparation of trophies;

(5) care of game meat;

(6) use of outfitter's gear as listed on the application;

(7) knowledge of area and terrain;

(8) knowledge of firearms;

(9) federal and state regulations as applicable to outfitting;

(10) first aid;

(11) boat safety;

(12) water safety;

(13) care and safety of livestock."

Section 9. Section 37-47-306, MCA, is amended to read:

"**37-47-306. Fees.** (1) The board shall establish fees commensurate with costs as provided in 37-1-134.

(2) Applications ~~shall~~ must be accompanied by a license fee as specified by ~~the~~ board rule.

(3) If a nonresident resides in a state requiring residents of the state of Montana to pay in excess

of the amount established by the board for a similar license, the fee for ~~such~~ the nonresident outfitter's, ~~or professional~~ guide's, or master guide's license ~~shall~~ must be the same amount as the higher fee charged in the state where the nonresident resides.

(4) The license fees must be deposited in the state special revenue fund and must be used by the board to investigate the applicant, to enforce this part, and for administrative costs, subject to 37-1-101(6)."

Section 10. Section 37-47-307, MCA, is amended to read:

"**37-47-307. Investigation of applicant -- issuance or denial of license.** (1) The board shall investigate each applicant for an outfitter's, ~~or professional~~ guide's, or master guide's license and determine the applicant's qualifications.

(2) The board may deny or refuse to issue any new license or to renew any previous license if the applicant does not meet the qualifications stated in this ~~section~~ chapter or rules adopted pursuant to this chapter. In the event that any application for license is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) ~~Final decision as to issuance of renewal licenses must be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.~~

~~(4)~~ A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this chapter ~~and renewal deadlines and fees imposed by rule of the board~~ or rules adopted pursuant to this chapter and upon completing an application for license renewal on a form provided by the board."

NEW SECTION. **Section 11. License for previously licensed guide.** The board shall issue a guide's license to an applicant who meets the following qualifications as of July 1, 1995:

(1) previous licensure as a guide in this state and practice as a guide for at least one season, as defined by board rule;

(2) payment of a license fee; and

(3) submission of a current cardiopulmonary resuscitation card, a first-aid card, or an equivalent card issued by a board-approved certifying agency.

Section 12. Section 37-47-341, MCA, is amended to read:

"**37-47-341. Grounds for denial, suspension, or revocation of license.** ~~Every~~ A license or right to apply for and hold ~~the~~ a license issued under this part may be denied, suspended, or revoked or other disciplinary conditions may be applied upon any of the following grounds:

(1) having ceased to meet all of the qualifications for holding a license, as required under this chapter and rules adopted pursuant to this chapter;

(2) fraud or deception in procuring a license;

(3) fraudulent, untruthful, or misleading advertising;

(4) having pleaded guilty to or been adjudged by a court guilty of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law~~;~~. A person may not apply for or hold an outfitter's, guide's, or master guide's license during any period of time in which a sentence for a felony has been deferred or suspended.

(5) ~~two convictions~~ one conviction or bond ~~forfeitures of $100 or more~~ forfeiture as to ~~violations~~ a violation of the fish and game or outfitting laws or regulations of any state or the United States ~~within the past 5 years~~;

(6) a substantial breach of ~~any~~ a contract with ~~any person using the services of the license holder~~ a participant provided that the breach is established as a matter of final judgment in a court of law;

(7) the willful employment of or contracting with an unlicensed guide or master guide by an outfitter;

(8) negligence or misconduct while acting as an outfitter, ~~or professional~~ guide, or master guide that causes an accident or injury to the person or property of ~~any client of the outfitter or professional guide~~ a participant; ~~or~~

(9) misconduct as defined by board rule; or

(10) any violation of this chapter or a rule adopted pursuant to this chapter."

Section 13. Section 37-47-343, MCA, is amended to read:

"**37-47-343. Appeal procedure.** ~~Any~~ A person who feels aggrieved by a final order of the board denying issuance of~~, suspension of, or revocation of~~ a license or suspending or revoking a license as an outfitter, ~~or professional~~ guide, or master guide may petition for judicial review as provided in Title 2, chapter 4, part 7."

Section 14. Section 37-47-345, MCA, is amended to read:

"**37-47-345. Enforcement.** Investigations and arrests for violations of this chapter or rules adopted pursuant to this chapter may be made by any peace officer; warden of the department of fish, wildlife, and parks; or federal agency enforcement personnel."

Section 15. Section 37-47-401, MCA, is amended to read:

"**37-47-401. Purpose.** It is recognized that some activities conducted by outfitters, guides, and master guides within the scope of their authorized services are inherently hazardous to participants regardless of all feasible safety measures that ~~can~~ may be taken. It is the purpose of this part to define those areas of responsibility and affirmative acts or omissions for which outfitters, guides, and master guides are liable for loss, damage, or injury and those risks for which the participant expressly assumes or ~~shall be~~ is considered to have voluntarily assumed the risk of loss or damage."

Section 16. Section 37-47-402, MCA, is amended to read:

"**37-47-402. Duties of outfitters, guides, and master guides.** An outfitter, guide, or master guide offering professional services in this state shall:

(1) act as would a reasonably prudent member of the profession while engaging in providing the services authorized to be performed by a licensed member of the profession;

(2) comply with all standards adopted by board rule ~~by the board~~."

Section 17. Section 37-47-403, MCA, is amended to read:

"**37-47-403. Duties of participants.** (1) A participant shall:

(a) act as would a reasonably prudent person when engaging in the activities offered by a licensed outfitter, guide, or master guide in this state;

(b) receive permission from the outfitter, guide, or master guide prior to embarking on any self-initiated activity and inform the outfitter, guide, or master guide of ~~his~~ the participant's plans and intentions upon receiving permission to engage in ~~such~~ the self-initiated activity.

(2) A participant may not:

(a) interfere with the running or operation of an outfitter's, guide's, or master guide's activities when ~~such~~ those activities conform to the standards of care set forth in 37-47-402;

(b) use the outfitter's, guide's, or master guide's equipment, facilities, or services unless the participant has requested and received permission from the outfitter, guide, or master guide;

(c) knowingly, purposely, or negligently engage in any type of conduct that contributes to or causes injury to ~~himself~~ the participant or any other person."

Section 18. Section 37-47-404, MCA, is amended to read:

"**37-47-404. Responsibility for violations of law.** (1) ~~Any~~ A person accompanying a hunting or fishing party as an outfitter or ~~agent~~ guide, master guide, or other employee of the outfitter is equally responsible with any person or party employing the person as an outfitter for any violation of fish and game laws unless the violation is reported to a peace officer by the outfitter, ~~agent~~ guide, master guide, or employee and the outfitter, ~~agent~~ guide, master guide, or employee was not an active participant. An outfitter or ~~agent~~ guide, master guide, or other employee of an outfitter who willfully fails or refuses to report any violation of fish and game laws is liable to the penalties provided in this section. If any ~~professional~~ guide or master guide violates the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual or implied knowledge of an outfitter employing the guide or master guide, the outfitter is legally responsible for the violation for all purposes under the laws or regulations if the outfitter fails to report the violation to the proper authority.

(2) An outfitter, guide, or ~~professional~~ master guide shall report any violation or suspected violation of fish and game laws that the outfitter, guide, or master guide knows or reasonably should have known has been committed by the employees, agents, representatives, clients, or participants in the outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest possible opportunity.

(3) A person may not hire or retain ~~any~~ an outfitter ~~or professional guide~~ unless the outfitter ~~or professional guide~~ is currently licensed in accordance with the laws of the state of Montana. A person may not use the services of a guide or master guide and a guide or master guide may not offer services unless the services are obtained through an endorsing outfitter."

Section 19. Section 87-2-511, MCA, is amended to read:

"**87-2-511. Sale of Class B-10 and Class B-11 licenses.** (1) The department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10 licenses and

2,000 Class B-11 licenses reserved for applicants ~~indicating their intent to use~~ using the services of a licensed outfitter~~,~~ and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a ~~reserved~~ resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with ~~a licensed outfitter or~~ a resident sponsor and must indicate the name of the ~~licensed outfitter or~~ resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a ~~licensed outfitter or~~ resident sponsor and ~~which~~ that affirms that the ~~outfitter or~~ resident sponsor will:

(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with ~~him~~ the resident sponsor, where they hunted, and what game was taken; and

(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

(4) Each application for an outfitter-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that affirms that the outfitter will:

(a) accompany the applicant;

(b) provide guiding services for the species hunted by the applicant;

(c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise the applicant of game and trespass laws of the state;

(d) submit to the department, in a manner prescribed by the department, complete records of who hunted with the outfitter, where they hunted, and what game was taken; and

(e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or

for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the affirmations of the applicant and outfitter required under subsection (4). If the sponsoring outfitter is unavailable or if the applicant wishes to use the services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

~~(4)~~(6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident sponsor.

~~(5)~~(7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold reserved licenses that are available under subsection ~~(4)~~ (6) must be issued by a drawing among all applicants for the respective unreserved licenses."

NEW SECTION. **Section 20. Investigators -- qualifications.** (1) The department may hire investigators to assist the board in investigations and inspections authorized by this chapter.

(2) To qualify as an investigator, a person must:

(a) be a citizen of the United States and be a Montana resident;

(b) have knowledge of outfitting and guiding through prior experience as a licensed outfitter, guide, or master guide or as a regulator of the outfitting profession; and

(c) have not less than 2 years' experience as a licensed private investigator or as an investigator, detective, special agent, or peace officer of a city, county, or state or of a federal agency.

Section 21. Section 87-1-503, MCA, is amended to read:

"**87-1-503. Ex officio wardens.** All sheriffs and their deputies~~,~~; all constables~~,~~; all peace officers of the state or any subdivision of the state~~,~~; the executive director and investigators of the board of outfitters; all state forest officers~~, and,~~; as authorized by cooperative agreement, ~~all~~ any officers of the United States forest service, agents of the United States fish and wildlife service, and peace officers of the bureau of land management, national park service, and corps of engineers that are assigned to duty in this

state~~,~~; and field personnel of the department~~,~~ as the director may appoint~~,~~ are ex officio wardens, without pay, except that the department may, in its discretion, allow ~~traveling~~ travel expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon proper vouchers from the state fish and game funds. Ex officio wardens have the same powers with reference to the enforcement of the fish and game laws of this state and the laws relating to parks and outdoor recreation contained in ~~chapters 1 and 2 of~~ Title 23, chapters 1 and 2, except chapter 2, part 7, as regularly appointed wardens, and it is their duty to assist, whenever possible, in the enforcement of those laws."

NEW SECTION. **Section 22. Repealer.** Sections 37-47-102 and 37-47-309, MCA, are repealed.

NEW SECTION. **Section 23. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 24. Codification instruction.** [Sections 2 and 20] are intended to be codified as an integral part of Title 37, chapter 47, and the provisions of Title 37, chapter 47, apply to [sections 2 and 20].

NEW SECTION. **Section 25. Effective dates.** (1) [Sections 20 and 21 and this section] are effective July 1, 1995.

(2) [Sections 1 through 19, 22 through 24, and 26] are effective October 1, 1995.

NEW SECTION. **Section 26. Termination.** [Section 11] terminates October 1, 1996.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0196, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the law relating to outfitters and guides, creating the master guide license; revising licensing requirements and qualifications for outfitters and guides; requiring submission of an area operating plan for outfitters and establishing a system for review of the plan; revising duties and liabilities related to outfitting to include master guides; revising qualifications and conditions applicable to outfitter-sponsored class B-10 and B-11 licenses; allowing the Board of Outfitters to hire qualified investigators; granting the executive director of the Board of Outfitters and board investigators ex officio warden status.

ASSUMPTIONS:

1. A new proposal has been included in the Executive Budget recommendation that includes 3.25 FTE and state special revenue authority of $99,909 in FY96 and $100,165 in FY97 for the licensing and regulating functions of the outfitting industry.
2. The budget recommendation includes 2.00 FTE investigator positions and 1.25 FTE administrative support, plus operating expenses for a total of $99,909 in FY96 and $100,165 in FY97.
3. The Board of Outfitters will review the current fee schedule to determine if fees are sufficient to cover the costs of the outfitter program.

FISCAL IMPACT:

There will be no additional fiscal impact beyond the recommendations in the Executive Budget.

Dave Lewis 1-20-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Emily Swanson

EMILY SWANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0196, as introduced

HB 196

section was similar to liquor licensing. **Mr. Melton** said he understood his concerns. He spoke of the distinction made by **REP. SWANSON** earlier between the liquor licensing system and the outfitting business license. There was a limited number of licenses. He did not believe there would be artificially expanded value of businesses when there were limitations placed outfitters under HB 196 and also with the limitation on the number of licenses available to outfitters.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Tape was turned over right before Mr. Melton began speaking. Lost 30 seconds.}

Closing by Sponsor:

REP. SWANSON thanked the committee for an excellent hearing. The issue about the 5,500/5,600 licenses was a perfect example of the kind of issues that council people "went around and around with." One of the messages sent to the governor in asking him to set up this council was that the legislative arena was not the appropriate place for dealing with complex controversial issues of this type. It required a group of citizens from all different constituencies to put aside some of their time to sit down together, build consensus, find a balance, and define solutions. She asked the committee to endorse the efforts despite the fact that it may not be the ultimate answer. She was proud to have been a part of the process and was grateful to the people she worked with. The amendments **REP. SWANSON** offered were "friendly amendments" and were the result of people finding discrepancies in the bill after it was drafted. They would be discussed in more detail in executive session along with the proposed fiscal note.

HEARING ON HB 196

Opening Statement by Sponsor:

REP. EMILY SWANSON, House District 30, Bozeman, presented HB 196, a companion bill to HB 195. The Advisory Council was entirely in support of HB 195, however, they did not support HB 196 in its entirety. The Board of Outfitters drafted the bill, brought it to the council and asked for their support. The council reviewed it in relation to the recommendations made to the governor and offered support on a large portion of HB 196. There were a few aspects that were not discussed at council meetings. Council members did not oppose them but could not offer 100% endorsement. **REP. SWANSON** agreed to carry the bill for the Board of Outfitters on behalf of the Department of Commerce. It was not a formal part of the HB 195 package, but she felt comfortable endorsing it. HB 196 gave the Board of Outfitters the ability to police, better control, and better regulate their industry. HB 196 creates a new class of guide, a master guide. Amendments have been offered to change that terminology to a "professional guide." It also created the ability for the Board of Outfitters

to assess the operations plan of an outfitter and determine whether there were conflicts in terms of the health, welfare, and safety of the public. Instead of seeing continual growth of the outfitting industry, HB 196 provided better control over the industry. The bill also approves the addition of a few FTE's. With this, better enforcement will occur. She said **Mr. Lance Melton** would give further details regarding HB 196. **REP. SWANSON** felt positive endorsing HB 196 and encouraged the committee's support.

Proponents' Testimony:

Lance Melton, Attorney, Department of Commerce assisted in drafting HB 196 at the request of the Montana Board of Outfitters. He stated that the bill was accurately represented by **REP. SWANSON.** On page 4, lines 17-23 authorized the Board of Outfitters to adopt rules specifying standards for review and approval of proposed new operations plans and proposed expansions in net client hunting use. This was the companion section to the moratorium proposed in HB 195. It was specifically drafted to avoid the potential problems of having to create a moratorium. The amendments proposed by the Montana Outfitters and Guides Association were friendly amendments and changed some language in this section. The proposed review process would not interfere with a private landowner's ability to lease land or dispose of it. The review process would allow the board to review an operations plan of someone proposing to expand their operation or significantly increase their clients. Rules would be drafted through a public hearing process. This section addressed some of the concerns expressed regarding horizontal expansion of existing outfitter operations. **Mr. Melton** spoke about Section 20 that authorized hiring of investigators and designated them as ex-officio wardens of the Department of FWP. Hiring investigators as employees rather than independent contractors was very important. The Board of Outfitters dealt with independent contractors, licensed private investigators, since 1988. The Board has been fortunate to have highly qualified individuals with integrity. However, the process of working with independent contractors on investigations of unlicensed, unethical activities by licensed outfitters was difficult. The contractor-board relationship was limited in direction and control. At times, supervision and control were necessary in order to complete investigations in a proper manner and avoid liability to the state. If these individuals were hired as employees, there would be a better process of communicating in investigations and it would result in better protection of the public health, safety, and welfare. The Department of Commerce supported this bill and recommended the committee to pass it.

Steve Meloy, Professional & Occupational Licensing Bureau, distributed written testimony as well as a Montana Board of Outfitters Fact Sheet. He expressed their support for the passage of HB 196. He discussed sections of the bill as covered by **REP. SWANSON** and **Mr. Meloy** in their statements. Passage of HB

196 was crucial to the Board of Outfitters ability to effectively manage its industry. **EXHIBITS 22 and 23**

Rita Orr, business owner and public representative of the State Board of Outfitters, expressed her support of the bill and submitted written testimony. Outfitting was one of the oldest and fastest growing industries bringing in about $93 million per year to the state. The bill would help their investigators issue citations and solicit cooperation from the law enforcement community. She asked the committee to support this legislation. **EXHIBIT 24**

Jack Billingsley, landowner and outfitter, presented written testimony and stressed the need for HB 196. HB 196 would allow the outfitting industry to provide better service with less conflict. Currently, there was no agency responsible for reviewing operation plans. He asked for the committee's support on HB 196. **EXHIBIT 25**

Todd Klick represented his family and the K Bar L Ranch. He voiced their support for HB 196 and distributed written testimony. He spoke of how the industry had grown in size along with the increase in the number of people conducting illegal outfitting. During the last five years, they have gone to the outfitter board, forest service, and FWP for regulations to protect the resources. However, there seemed to be no clear regulations to follow concerning the problems. The outfitting industry needed revitalization from within. HB 196 was a step in the right direction and he urged passage of the bill. **EXHIBIT 26**

Bob Fry, citizen from Livingston, stated he was the enforcement coordinator for the Board of Outfitters until six months ago. He took the day off from his new job to attend the hearing. He expressed support for the bill. HB 196 required hiring investigators as permanent employees. He left the enforcement division, even though he was content, because his new employment offered job security. When he was enforcement coordinator, he questioned where the fine line was between working cases as a contractor and the effect that interaction might have on his business viability. Often, **Mr. Fry** felt mistaken for an employee even though he was a contractor hired by both the Department of Commerce and other agencies. As an investigator, his credibility depended on the status of the relationship with the Department of Commerce. Credibility was built through longevity and permanent employee status. Longevity would only be reached by job security. Many times while working, he would encounter opportunities in the field that would place him in the position of assisting law enforcement. Ex-officio status, along with a permanent position, would provide investigators with the credibility and the resources they needed in the field. He felt the state had asked him to perform a job without adequate resources or authority to accomplish it in a professional manner. He urged passage of the bill.

Robin Cunningham, Fishing Outfitters Association of Montana (FOAM), stated his support for the bill and handed in written testimony. The current proposal was the result of the board's efforts to address necessary statutory housekeeping, tighten up qualifications for outfitters, create an advanced level of guides with appropriate qualifications, and hire additional enforcement personnel. He encouraged the committee to support HB 196. **EXHIBIT 27**

Brent Jones, private investigator, believed he was in a precarious position due to his contract status. The investigations he conducted for the Montana Board of Outfitters required him to continually work with state and federal law enforcement. He has had his credibility and loyalty questioned and also been perceived as not having a vested interest in the department for which he worked. If the bill passed, it could jeopardize his contract with the Department of Commerce. However, he urged the committee to pass this bill.

Tony Schoonen, Skyline Sportsmen Association and Coalition for Appropriate Management of State Land, expressed their support of the bill. The only concern that he had was on page 2, line 27, where it appeared that an outfitter was needed to hunt varmints and predators. If some of that language was stricken it would be more acceptable. The strength of the bill existed in reviewing operation plans that would reduce user conflicts.

Jean Johnson, Executive Director, Montana Outfitters and Guides Association, said the industry supported the bill. HB 196 provided regulation for the industry. Compromise was reached between the various groups that worked on the bill. She urged the committee evaluate the bill in its entirety including the proposed amendments. She urged passage of HB 196.

Max Chase, past chairman of the Board of Outfitters, was instrumental in writing HB 196. It has been in the review stage for nearly one year. This bill was the result of the 1993 legislative request and of seven years of experiencing an outdated and unenforceable statutes. Everyone should recognize that this bill was necessary for the Board of Outfitters to better regulate outfitters. **Mr. Chase** believed more regulations were necessary. One additional point he made was that the legislature in 1993 directed us to educate outfitters better. This piece of legislation gave the Board of Outfitters authority to offer a test on one level of guides. It was intended to be an educational process and not a deterrent.

Pat Graham, Executive Director, Department of Fish, Wildlife, and Parks, offered their support for the bill and handed out written testimony. The Board of Outfitters evolved significantly since its creation in 1987 and has taken major steps in increasing its ability to regulate the outfitting industry. FWP believed that HB 196 represented a continuation of the evolution of outfitting and was in the best interest of the public. FWP worked closely

with the board and supported the proposed changes that would allow the board to effectively deal with illegal outfitting and violations of the board statutes. **Mr. Graham** urged the committee to pass HB 196. **EXHIBIT 28**

Jack Rich, Montana Outfitters and Guides Association (MOGA), supported HB 196. Two major components in the bill were necessary for the continued viability of the outfitting industry. The first was to address rogue illegal outfitting operations. The second was the designation of ex-officio status It addressed the ability to regulate the area of operation that outfitters currently use. It was an important part of stabilizing the outfitting industry and allowing them to survive as a viable operation.

Kelly Flynn, citizen, communicated his support of HB 196.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. MOLNAR asked if currently a person needed an outfitter license to accept enumeration for the hunting of mountain lions or even to chase lions. **Mr. Graham** said yes. He referred to one of the comments made about varmints and predators. It expanded the definition of the animals that a person could take compensation for. It does not require that a person needed to be an outfitter. **REP. MOLNAR** restated his question and asked him to clarify his answer. **Mr. Graham** replied mountain lions were a game animal. **REP. MOLNAR** questioned the reason why varmint and predator were added. **Mr. Graham** remarked that this was not a FWP bill. He did not know specifics of why the Board proposed to add them. He said that the question should be referred to **Mr. Melton. Mr. Melton** answered **REP. MOLNAR's** first question of needing a license in order to pursue a mountain lion for a fee. A license was required. On page 3, line 2, language was included to close some of the loopholes. Currently a person does need a license, if for consideration, they aid or assist any person in locating or pursuing any game animal. The reason for requiring a license for the hunting of varmints or predators was due to the lack of valid hunting and outfitting operations for predators and varmints. Enforcement agents have approached unlicensed outfitters with a client, who happened to have a deer tag in his pocket. When the game warden or investigator questioned the individuals, the reply was that they were hunting coyotes.

REP. MOLNAR said he knew of a school that taught people to trap and use lairs and snares. He asked if they would need an outfitter license. **Mr. Melton** explained that guide schools were licensed by the Department of Commerce under a separate division from the professional and occupational licensing bureau. He needed to complete further research to answer the question

better. **REP. MOLNAR** said the man that operates the school was not a guide. He conducted a trapping school. Under the strict language in HB 196, this person would need a license. However, he would not be able to obtain one because of the moratorium. **Mr. Melton** said the Board of Outfitters has traditionally not interfered with schools of instruction. If there were questions regarding that issue, they could be addressed through amendments granting an exemption for individuals providing instructional activities.

REP. MOLNAR referred to page four, subsection (e). An outfitter does not have a plan that showed geographic boundaries. He asked **Ms. Johnson** if that was correct. **Ms. Johnson** said operation plans vary for each operator. The outfitter was not required to give township, section, or required to identify his operating area in layman's terms. **REP. MOLNAR** asked if the language would say something like north of the highway, south of the river, and bordered by the creek. **Ms. Johnson** said she believed that was correct. She referred additional clarification to **Mr. Melton**. **Mr. Melton** said the section of law that currently exists details the type of information that was required to be submitted as part of the operations plan. Under current law, an outfitter must submit a statement of maximum number of clients accompanying him at any one time and written approval of the agency or landowner on whose land the outfitter will provide services or establish hunting camps. On page 8, lines 13-21 further specify the type of information that was necessary and would become part of the operations plan. **REP. MOLNAR** said if the bill passed, he should be able to inspect an outfitter's record and determine exactly where he was operating. If the outfitter obtained another lease he would know that the outfitter expanded horizontally. He asked **Mr. Melton** if these statements were correct. **Mr. Melton** said they were correct. The proposed amendments will be presented in executive session. There was a modification that was important to note on Subsection (d), page 4. Lines 17-23 discussed the rules specifying standards for review and approval of outfitter plans and proposed expansions. The terminology will be added, "net client hunting use." The reason for the modification was to avoid the prospect of interfering in a private landowner's ability to lease his land. The focus was on net client hunting use. If an outfitter planned to expand and add 20 clients to their existing net client hunting use, then the review process would take place. The determination would be based on whether there was a conflict with hunting uses of the area. The intention was to review commercial activity on nonguided sportsmen activities and determine if there was undue conflict or threats to public health, safety, or welfare.

REP. MOLNAR said it was his understanding that outfitters advertise for clients. The clients choose an outfitter and the Board of Outfitters does not have input whether an outfitter guides 10 people this year or 20 next year. He wanted to know how the board could detect an increase if an outfitter advertised for clients. **Mr. Melton** explained there would have to be a

definition drafted by the Board of Outfitters regarding net client hunting use. It would not be totally inflexible and require that if an outfitter had 20 clients one year and because of a bad draw he secured eight the next year, that outfitter could never return to the 20 clients. **Mr. Melton** presumed it would be based on a yearly average. Several different organizations will be involved in the rulemaking process utilizing an informal committee process. It depended upon determinations made in the rulemaking process. **REP. MOLNAR** contended that if an outfitter had 10 clients one year, 20 in the next year, 10 in the next year, and 20 in the next year, the average would be 18 clients. This year, the outfitter has 25 clients and this would be considered a natural fluxation. He contended this was indeed vertical growth and the Board of Outfitters had no input. In summation, an outfitter was allowed to grow horizontally through land leasing and vertically because of natural fluctuation. **REP. MOLNAR** asserted there were actually no controls at all. **Mr. Melton** said potential increases would need to be reviewed for undue conflicts existing in hunting uses of the area.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: Lost one minute changing tapes.}

REP. MOLNAR asked about the amount of input there would actually be through the adoption of rules determining whether or not there was an increase. **Mr. Melton** could not estimate the amount of public input. He mentioned that the Board of Outfitters had a history of going above and beyond statute requirements for noticing proposed rule changes. If a person was examining whether there was a conflict between guided and nonguided hunting use involving public comment, perhaps sportsmen associations in the area could provide input. It would be one way to obtain different viewpoints. **REP. MOLNAR** asked **Mr. Melton** to draft an amendment that would require public notification and review. **Mr. Melton** said he could prepare such an amendment. However, he would have to first consult with Board of Outfitters to determine if they agreed. He mentioned that the bill was in the committee hands and they could amend it if they wish. **REP. MOLNAR** commented that the bill belonged to the people of Montana as would the law if HB 196 passed, not to the Board of Outfitters. **Mr. Melton** agreed.

REP. REAM asked if **Mr. Melton, Mr. Graham, Ms. Johnson** would be available in executive session, many of these questions could be deferred until that time. If there were questions for people who have travelled from out of Helena, they would be more appropriate. **CHAIRMAN WAGNER** agreed and requested members to ask those questions now and reserve the technical questions for executive action.

REP. HIBBARD reviewed portions of the bill and commented that the Board of Outfitters would have some jurisdiction over licenses. **Jack Rich** said yes. **REP. HIBBARD** asked if they will be in charge

of licensing outfitters. **Mr. Rich** said that was correct. **REP. HIBBARD** asked about the current price of an outfitter license. **Mr. Rich** replied $150. **REP. HIBBARD** said currently that license was not saleable. **Mr. Rich** said he was correct. **REP. HIBBARD** asked **Mr. Rich** if the moratorium was imposed, would the license become more valuable. **Mr. Rich** said he did not believe so. Currently, there were over 50 inactive outfitting licenses "sitting on the books" that do not have an operations plan. The Board has the authority to require those licenses either activate or be returned to the Board of Outfitters for reissuance. He suspected that the Board can use that flexibility to make room for additional outfitters without placing a market price on that license. He emphasized that there were outfitter clients that do not have licenses and that there was room for more outfitters. Currently, they were overbooked by about 1,200 clients. Last year there were over 1,500 booked outfitter clients that did not get a hunting license. Consequently, that means the outfitting industry has the capacity to handle 1,500 more clients. **Mr. Rich** did not believe outfitting licenses would greatly increase in value.

REP. SLITER said in light of what **Mr. Rich** said regarding the Board of Outfitters control over these 50 licenses, the moratorium was a moot point. **Mr. Rich** said those licenses cannot be activated without an operations plan. The operations plan cannot be approved without going through the review process in HB 196. That review process would identify whether or not there was undue conflict with other users. **REP. SLITER** said by rulemaking authority if the board could adopt the operations plan and reissue the licenses, a moratorium was inadequate. **Mr. Rich** said he did not follow the line of questions and referred them to **Mr. Melton**. **Mr. Melton** explained the review process was more flexible than a moratorium. The Board of Outfitters has specifically endorsed it. The review process would review those new operating area plans and expansion to existing plans. Whether or not problems existed would be researched before making the determination that there will be no new license. **REP. SLITER** said, for the record, with the horizontal constraints that are in Subsection (d) of Section 5 of HB 196, Section 11 of HB 195 was unnecessary. **Mr. Melton** said he was uncomfortable going that far. However, the review process provided an alternative method.

CHAIRMAN WAGNER asked **Ms. Johnson** about concerns from one of his constituents. **Ms. Johnson** said she was unable to contact the outfitter but would keep trying.

<u>Closing by Sponsor</u>:

REP. SWANSON thanked everyone for "hanging in there." It had been a long afternoon but was really worthwhile. Discussions could be continued in executive session. She spoke of proposed amendments to be discussed in executive session. The questions asked by the committee members allowed everyone to take a deeper look at all the issues involved. Hopefully, some of the issues

would be worked out and the bill would have a successful conclusion.

ADJOURNMENT

Adjournment: 6:35 p.m.

Douglas T. Wagner
REP. DOUG WAGNER, Chairman

Mary Riitano
MARY RIITANO, Secretary

DW/mr

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL DATE January 26, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Doug Wagner, Chairman	✓		
Rep. Bill Rehbein, Vice Chairman, Majority	✓		
Rep. Emily Swanson, Vice Chairman, Minority	✓		
Rep. Charles Devaney	✓		
Rep. Jim Elliott			✓
Rep. Daniel Fuchs	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	✓		
Rep. Chase Hibbard	✓		
Rep. Dick Knox	✓		
Rep. Rod Marshall	✓		
Rep. Brad Molnar	✓		
Rep. Bob Pavlovich	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Paul Sliter	✓		
Rep. Bill Tash	✓		
Rep. Jack Wells	✓		

EXHIBIT 22
DATE January 26th
HB 196

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

MARC RACICOT, GOVERNOR

111 N. JACKSO

STATE OF MONTANA

PO BOX 2005
HELENA, MONTANA 59620-05

January 26, 1995

Chairman, Committee Members
House Fish and Game Committee

Subject: House Bill 196

Dear Chairman Wagner and Committee Members:

The Department of Commerce wishes to express its support for the passage of House Bill 196, a bill addressing the regulation of licensed outfitters and guides in the State of Montana. House Bill 196 proposes needed changes to the laws regulating the outfitting and guiding industry, and has been prepared through a cooperative effort with the members of the industry who fund the licensing program. The bill is specifically endorsed by the Montana Outfitters and Guides Association (MOGA) and the Fishing Outfitters Association of Montana (FOAM). These two organizations represent the majority of outfitters in the State of Montana. These organizations, and other proponents will speak to most of the sections in the bill.

The Department wishes to focus on sections 20 and 21 of the bill, which provide for the hiring of investigators for the Board of Outfitters. These sections of the bill have been endorsed under the final recommendations of the Governor's Task Force on Private Lands, Public Wildlife, have been endorsed by the Governor through the legislative review process, and are essential to an efficient management of the licensing program for outfitters and guides.

The Department currently obtains investigative services for the Board of Outfitters under independent contract with licensed private investigators. The Department is pleased with the quality of work provided by these contracted individuals. The Department, however, lacks the necessary ability to supervise and provide support to these individuals under the current system due to their status as independent contractors.

Passage of House Bill 196 is crucial to the Board of Outfitters' ability to effectively manage its industry. The Department appreciates the opportunity to express its support for House Bill 196, and respectfully requests that this committee issue a "do pass" recommendation on House Bill 196. Lance Melton, the attorney who drafted the bill, is here to answer any legal questions regarding the bill. Bud Solmonsson, Executive Director for the Board, is available to answer any questions on the licensing program.

Sincerely,

Stephen H. Meloy
Bureau Chief
Professional and Occupational
Licensing Bureau

EXHIBIT 2
DATE January
HB 196

MONTANA BOARD OF OUTFITTERS FACT SHEET

* The Montana Board Of Outfitters transferred from Department of Fish, Wildlife, & Parks in 1987 to the Department Commerce

* The Board consists of seven Governor-appointed membe five members from the outfitting community, one member representi the Department of Fish, Wildlife, & Parks, and one public membe

* The Board currently has only one full-time employ assigned to the Board, the executive director. It current utilizes a part-time Commerce employee, temporary help wh available, and part-time temporary contracted investigators.

* There are currently 732 licensed outfitters in Monta and nearly 2000 guides. By contrast, Idaho has about half t amount of outfitters and five times the staff (four full-time sta and ten part-time investigators)

* Enforcement of unlicensed and illegal outfitting h risen 100% during the last two years. The assigned caseload we up from 80 cases in 1992 to 160 in 1994. This does not count a complaints, just cases which have been turned over to this Boa by formal means.

* Board of Outfitters investigators are NOT employees; th have no authority to request information, to give tickets citations, or to take any other action against an unlicens outfitter or guide; they essentially have the same authority as private citizen. The same applies for investigating a licens outfitter or guide except the investigator can ASK for informati relating to outfitter records.

* Currently there are 111 candidates in process receiving their outfitters license. Upon the completion of the license this will bring the currrent number of outfitters to 84

EXHIBIT 2
DATE January
HB 196

HOUSE OF REPRESENTATIVES

TESTIMONY

January 26, 1995

My name is Rita Orr. My husband and I have owned an operated our own business in Libby for 18 years. It is with this experience as a business owner, I believe, that I was asked a year and a half ago to become the public representative of the State Board of Outfitters. The outfitting industry is one of the oldest industries in our state. It is a large industry comprised of many small businesses and one of the fastest growing industry in Montana. This industry brings in 93 million dollars per annum to Montana. It is because of this growth and the changes in this industry that we are introducing HB 196.

This legislation will give the Board the authority to review new or proposed expansion of existing operation plans. The board will be able to determine if an increase in use will cause

undue conflict with the existing plan, cause a conflict with the use of the land or to impact public health safety.

It will grant our investigators ex-officio warden status. They would be able to give tickets in the field, something they have not been able to do in the past. It would also give them authority to solicit cooperation from the law enforcement community, which they can not do now. This legislation will simply give the Board the ability to enforce our laws.

This legislation will help to regulate the industry and stabilize the growth which they are experiencing.

I would ask for your support on this legislation.

Rita M. Orr
Board of Outfitters

H.B. 196 Testimony given on Jan. 26 - 95

EXHIBIT 25
DATE January 26, 19
HB 196

Mr. Chairman - Members of the Committee:

For the record, my name is Jack Billingsley. I am a landowner - stockgrower on our family's 4th generation ranching operation at Glasgow. I have been a Licensed Outfitter for fifteen years. I am a past board member of the Montana Outfitter's Guide Association. For the past five years, I have been a member of the State Licensing Board of Outfitters. I see a real need for this bill.

Montana is experiencing a rapid increase in the number of Outfitters. House Bill 196 would provide a review process of proposed operation plans. This would allow the outfitting industry to provide a better service with less conflict. There is no other agency responsible for reviewing operation plans.

I ask the committee for your support of House Bill 196.

Thank you,

Jack Billingsley

EXHIBIT 26
DATE January
HB 196

Todd Klick
Representing K Bar L Ranch and the Klick family
Support for House Bill 196

Mr Chairman and Committee Members,

My name is Todd Klick , I am representing The K Bar L Ranch and the Klick Family. I am hear to voice our support for House Bill 196 .

My family has outfitted in the Sun River Canyon , Sun River Primitive area since 1927. This area is our place of buisness , but is also our home. The pristine resource of this area is without comparison. In the last 15 years we have witnessed a dramatic increase in people coming to Montana to see the country for themselves. This has been good for the economy, families , and the outfitting buisness itself. However along with this has come individuals who have no Outfitting liscence or are operating outside there usage at the exspense of the resource and the clients they host. We cannot allow the resource to be degraded from overuse in all this confusion. Remember that this is what brought these folks here in the first place.

In the last 5 years we have pressed the Outfitter board, Forest Service and Fish, Wildlife and Parks Dept for some joint regulation to protect the resource. There seemed to be no clear regulations to follow concerning these problems from any of the agencies.

What actually defined outfitting . Does the mode of transportation make a difference if it is to be defined as outfitting. In example how clients are conveyed , either by horesback or by boat to a area for recreation purposeses Who was responsible for enforcement and capabilities of enforcement. The loopholes were endless.These are just a few of the problems that needed to be addressed .

The Outfitting industry as a whole needs to do a self revitalization from within. The House Bill 196 is a step in the right direction, I hope you will consider its contents and give it your support. Thank you for your time.

EXHIBIT 27
DATE January 26, 1995
HB 196

THE FISHING OUTFITTERS ASSOCIATION OF MONTANA, WITH A MEMBERSHIP OF 200 OUTFITTERS AND APPROXIMATELY 200 GUIDES, HAS FOLLOWED THE DEVELOPMENT OF THIS LEGISLATION IN A VARIETY OF FORMS FOR SEVERAL YEARS. THIS CURRENT PROPOSAL IS THE RESULT OF THE BOARD'S BEST EFFORTS TO ADDRESS SOME NECESSARY STATUTORY HOUSEKEEPING, TIGHTEN UP QUALIFICATIONS FOR OUTFITTERS, CREATE AN ADVANCED LEVEL OF GUIDES WITH APPROPRIATE QUALIFICATIONS, AND HIRE MORE ENFORCEMENT PERSONNEL.

TAKEN TOGETHER WITH THE AMENDMENTS PROPOSED TODAY, HB 196 GIVES THE MONTANA BOARD OF OUTFITTERS AN EFFECTIVE WAY TO CONTINUE IMPROVEMENT OF THE OUTFITTING INDUSTRY WHILE PROVIDING ADEQUATE PROTECTION FOR THEIR CLIENTELE.

FOAM ENCOURAGES THIS COMMITTEE TO CONCUR WITH HB 196.

EXHIBIT 28
DATE January
HB 196

House Bill 196 THB19(
January 26, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the
House Fish and Game Committee

I would like to offer our support for the Board of Outfit legislation, HB 196 as introduced. The Board of Outfitters evolved significantly since its creation in 1987 and has taken s major steps in increasing its ability to regulate the outfitt industry. Legislation in the last session created the execut director position for the board which we believe has increased administrative capability of the board and made it more respons to the public. We believe that HB 196 represents the continuat of this evolution and is in the best interest of the public.

We have worked closely with the board since its creation and h a representative on the board. Our law enforcement personnel h provided extensive support to the board in the investigation outfitting violations and the board has provided funding to department to compensate for these efforts.

We support the proposed additions to the powers and duties of t board in Section 3, 5d(37-47-201) that will allow the board provide a means of evaluating new or expanded landbased outfitti based on conflicts with existing use. This has been supported the Governor's Council on Private Lands/Public Wildlife and cou aid in resolving conflicts between outfitted and non-outfitt hunters.

We believe that the outfitted public will be better served by t proposed creation of another category of guide that will refle additional experience and training and that the proposed langua in Section 6, 1d (37-47-303) is a positive step in protecting t public that utilize outfitters and guides since it will requi that all guides have a current first aid, CPR or equivalent ca certified by a board-approved certifying agency.

We support all of the proposed changes in the bill that will all the board to more effectively deal with illegal outfitting a violations of the board statutes. We also support the inclusion board investigators as ex-officio game wardens in Section 21. E officio status will enable the investigators to conduct mo adequate investigations and to issue citations for violations fish, wildlife and parks statutes.

Thank you for the opportunity to testify today, and I urge yo passage of HB 196.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME COMMITTEE DATE Jan

BILL NO. 196 SPONSOR(S) SWANSON, HIBBARD, HERTE

PLEASE PRINT PLEASE PRINT PLE

NAME AND ADDRESS	REPRESENTING	Sup
Irving Max Chase	Outfitter	
Kathy Hadley	Advisory Council	
Bud Solvonsson	Commerce/MBO	
Debra N Donaskie	Commerce/MBO	
Rita M. Dm	MBO HR196	
[illegible]	MOGA	
[illegible]	S&L	
[illegible]	MOGA	
Jack Billingsley	MBO	
Todd [illegible]	K Bar L Ranch	
Pat Graham	F W P	
Bill Holdorf	Sheffene Anaconda Sportsman	
STEVE Meloy	Dept of Comm	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STAT
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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CS-14

David E. Johnson MT Dept. of Comm

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME COMMITTEE DATE January

BILL NO. 196 SPONSOR(S) SWANSON, HIBBARD, HERTEL, Pi

PLEASE PRINT PLEASE PRINT PLEAS

NAME AND ADDRESS	REPRESENTING	Suppor
Sherry Cargill	outfitter	✓
Martha McFome	Outfitter	✓
Jean Johnson	MOGA	✓
Smoke Elser	Outfitter	✓
Monte McLane	outfitter	✓
Andrea Bibbingsley	Outf. Hea/guide	✓
ROBIN CUNNINGHAM	FISHING OUT. ASSO. MT.	✓
R. H. BIRD	Se CF	✓
Verle L. Rademacher	Council	✓
Nina Baucus	Advisory Council	✓
Pat McCrossan	MBO	✓
Brent Jones	MBO	✓
Nancy K Dick	Kleon L Ranch	✓

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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outfitted hunters. He believed the numbers should be returned to their prior state before the bill was introduced.

REP. HIBBARD stated that the bill could be "tweaked all day and find good reasoning and rationale for it." However, HB 195 was the result of 18 months of compromise and consensus. The final product had benefits and sacrifices from each group involved. The consensus nature of the document and all the hard work that went into it must be acknowledged. He urged the committee to resist further changes.

REP. MOLNAR believed everyone's concerns were valid. No document, including this one, was "chiseled in stone." He wanted to return the numbers to their prior state.

Vote: REP. MOLNAR AMENDMENT. Motion failed 17 to 1 with REP. MOLNAR voting yes.

Motion: REP. SWANSON MOVED HB 195 DO PASS AS AMENDED.

Discussion:

CHAIRMAN WAGNER spoke of a person who operated a safari in which people traveled through different parts of the wilderness areas taking pictures. **REP. SWANSON** said the term "hunting outfitter" addressed those concerns.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: Lost 15 seconds. A portion of CHAIRMAN WAGNER's comments were lost.}

Vote: DO PASS AS AMENDED. Motion carried 17 to 1 with REP. PAVLOVICH voting no.

EXECUTIVE ACTION ON HB 196

Motion: REP. SWANSON MOVED THAT HB 196 AND AMENDMENTS DO PASS.

Discussion:

REP. SWANSON distributed a copy of the amendments. They were "friendly" amendments negotiated through the three groups involved in the process. The word "master" was stricken and replaced with "professional" because the Board of Outfitters felt that was a more appropriate term. The other amendments changed "operating area" to "operations plans." Instead of the Board of Outfitters regulating on the basis of an operating area, outfitters would be regulated based on operations plans. Net client use would be utilized to evaluate whether or not there were land use conflicts. The amendments ensured that private property owners rights were not being infringed on.

REP. TASH asked **REP. SWANSON** about the effect on permits on federal land. **REP. SWANSON** said there was no effect. When an

outfitter submitted their plan, it must describe the area to be outfitted and whether they have the proper federal permits. **REP. TASH** asked about the relationship between federal permits and the operating plan. **REP. SWANSON** said the whole operating plan must be submitted. It was not two separate plans. The outfitter was licensed through the state to operate in a designated area.

REP. MOLNAR said he understood that HB 196 halted the horizontal growth of outfitters. If outfitters want to increase their size, they could do so through an agreement. He asked **REP. SWANSON** about the manner in which horizontal growth was controlled. **REP. SWANSON** said the control would be through the net client base, not through the area that was outfitted. It would not be cost effective for an outfitter to lease more land if he was not allowed to increase net client use. **REP. MOLNAR** said that as a result, hunting would be improved and the outfitter would charge more. He believed this would be horizontal growth.

REP. SWANSON said the horizontal growth referred to in HB 196 included increases in the amount of leased land and in the number of guides who work for outfitters. Most outfitters expand horizontally through hiring more guides and placing them in different camps. In doing this, the net client base expanded. If an outfitter cannot expand the net client base, it was not worthwhile hiring more guides or leasing more land. **REP. MOLNAR** maintained that if an outfitter could charge more for a better quality hunt, it would be horizontal expansion. As these expansions took place, the public was supposed to have input. However, the public cannot have input as to whether or not a landowner could lease his land. As a result, there would not be public input. He believed there was no public toleration for horizontal growth.

REP. SWANSON said he was making the assumption that the outfitter would charge more and as a result have more guides per client which would be considered as horizontal growth. She disagreed. The public comment was valid on the operations plan as well as on the operating area plan. **REP. MOLNAR** said currently there was a public hearing to determine if an outfitter could lease additional land. Under HB 196, the outfitter could make an agreement with the landowner and the public would be left out. Therefore, it was economically feasible to expand and the public would have nothing to review. **REP. SWANSON** said if that agreement contained the outfitter's and landowner's names, the public really should not have the right to determine the manner in which a landowner handled his property. **REP. MOLNAR** agreed.

REP. MOLNAR asked how the horizontal growth could be stopped when there was unlimited money. If an outfitter was able to have one guide per person, he would lease more and more land. Nothing would be accomplished. **REP. SWANSON** stated that if there was one guide per client, there would be no point in leasing more land. **REP. MOLNAR** said leasing more land provided a higher quality hunt.

REP. KNOX agreed with **REP. SWANSON.** He remarked that the idea of unlimited money and that there would always be somebody who would pay unlimited fees was a fallacy. The largest percentage of outfitter's clients were people of moderate means. A one-on-one guide situation was the exception. He did not anticipate that would be the case in the future. The vast majority of people cannot afford a one-on-one situation with a guide.

REP. HIBBARD understood **REP. MOLNAR's** concerns; however, there was a limited number of hunting licenses. Only a minimal amount of expansion could occur. Basically, a cap was placed on the industry and there was no reason to fear that minute growth.

REP. RANEY agreed that outfitter growth was arrested; however, no limits were placed on the number of guides. If an outfitter was doing well, he could hire more guides which in turn could require more leased land. This would result in more land taken out of public opportunity. **REP. SWANSON** said that possibility did exist. This was the crux of the problem with the outfitting industry. HB 196 was the best plan to begin to get control. The balance in the plan was to control the net client base thereby reducing the amount of leased land. It would not be acceptable to mandate that a landowner could not lease his land nor could they mandate that an outfitter could not hire more guides. HB 196 attempted to regulate an industry out of control. One of the reasons for the moratorium was to allow the plan in HB 196 an opportunity to work.

REP. MARSHALL said everyone was in the hearing and not one outfitter came forward objecting to HB 195 and HB 196. He requested no further changes or all could be lost.

REP. MOLNAR said the operations plan attempted to describe an operating area. There was latitude given on the vertical growth. He believed that a geographic limit could be placed on an outfitter's business license. Almost every other business has a geographic area that they were allowed to operate in. He expressed opposition to the amendments.

REP. WELLS agreed with **REP. MOLNAR.** An operating plan should be designated. In the beginning he felt that the number of licenses would provide regulation. However, increased amounts of money would lead to growth. His son was a guide. Currently, he was guiding one person at a time and getting paid more money than when he was guiding three people at a time. There may be a limit to the money, but he did not like the thought of how high that limit would be. An operating plan should be specified and regulated through the outfitter's board. It could be a generous plan. **REP. SWANSON** stated that it would be feasible for an outfitter to lease directly from the landowner and bypass the Board of Outfitters. An operating plan would eliminate this possibility. It was controversial to get involved in private property owner's rights. This became the overriding issue

bypassing whether or not it was a good idea to control the outfitter's operating area.

REP. HARPER emphasized that it was a consensus bill. He asked **Lance Melton, Attorney, Department of Commerce,** to respond to the committee's discussion. **Mr. Melton** reassured that the amendments were "friendly amendments" reached through consensus between the regulatory board and private associations. It was a consensus between groups that have different ideas and agendas. All of the groups were in complete agreement on the bill and amendments. Net hunting client use was chosen because of the great concern over infringing on landowner's rights. If they had chosen to limit the geographical area, property rights could have been infringed upon. Utilizing net hunting client use as a measurement of expansion should discourage uncontrolled outfitter growth. There needed to be some latitude regarding growth so that quality hunting could be maintained.

REP. MOLNAR stated his major concern was that outfitters would provide a higher quality hunt that would "command a higher dollar" and as a result could lease more land. He asked who would have the authority to regulate an outfitter plan and wondered where property rights violations occurred. **REP. SWANSON** said everyone was speculating the results of the program. She did not want to interfere with private property rights.

REP. WELLS asked for clarification from **Mr. Melton** about sportspeople's reaction to the amendments. **Mr. Melton** said HB 196 was a companion bill to HB 195. HB 196 was a regulatory bill and was presented by the Board of Outfitters. The consensus that was gained was between the Board of Outfitters and private association representatives of the outfitting industry. There were no opponents to the bill at the hearing despite the fact that the Montana Wildlife Federation, Montana Stockgrowers, and members of the private sportsmen's associations were present at the hearing.

{Tape: 3; Side: B; Approx. Counter: 000; Comments: Lost 15 seconds. The vote on the amendments was not recorded.}

Vote: REP. SWANSON AMENDMENTS. Motion carried 13 to 5 with REPS. DEVANEY, MOLNAR, PAVLOVICH, RANEY, and WELLS voting no.

Discussion:

REP. HIBBARD emphasized that HB 195 was the product of the 18-month council. HB 196 was not the product of that council but dealt with a similar subject; therefore, it was considered a companion bill.

REP. SWANSON stated that the 18 month council had many recommendations. Many of the recommendations were not included in HB 195. The idea of giving the Board of Outfitters more authority to regulate the industry and encouraging greater

regulation was a recommendation of the council. She agreed to carry the bill and urged it be considered as a companion bill to HB 195. If the outfitting industry did not become regulated, nothing much would be solved.

Motion: REP. SWANSON MOVED HB 196 DO PASS AS AMENDED.

Discussion:

REP. TASH asked **REP. SWANSON** about the fiscal note. **REP. SWANSON** explained that a few FTE's would be given to the Board of Outfitters to provide greater enforcement capabilities. The money used was strictly outfitter license fees. **REP. TASH** asked about the source of the fees. **REP. SWANSON** said the money was only from outfitting license fees.

Motion/Vote: REP. MOLNAR MOVED THAT ON PAGE 4, LINE 23, TO ADD, "RULES ADOPTED PURSUANT TO THIS SECTION MUST PROVIDE FOR SOLICITATION AND CONSIDERATION OF COMMENTS FROM SPORTSMEN IN THE AREA TO BE AFFECTED BY THE PROPOSAL WHO DO NOT MAKE USE OF OUTFITTED SERVICES." Motion carried 13 to 5 with REPS. KNOX, HANSON, HIBBARD, SLITER, and PAVLOVICH voting no.

Motion: REP. MOLNAR MOVED THAT ON PAGE 2, LINE 27, TO STRIKE THE WORD "VARMINT."

Discussion:

REP. RANEY said previous discussion from the department related that it was difficult to discern if a person was actually hunting a varmint or was with an illegal guide who was just saying he was hunting varmints.

REP. HANSON said in the spring of the year in her area, outfitters took clients prairie dog hunting. Prairie dogs were considered varmints and she believed that word should be stricken.

REP. KNOX agreed with **REP. HANSON.** It was a viable business.

CHAIRMAN WAGNER asked **REP. MOLNAR** about the reason for striking the word, "varmint." **REP. MOLNAR** stated that it did not suggest that outfitters could not continue taking people prairie dog hunting. However, it meant that an outfitter's license was not required if a person took a person to shoot varmints for a tank of gas or lunch. If a person took compensation, he would be a criminal. His amendment would allow people to go and shoot varmints such as coyotes, prairie dogs, and gophers without an outfitting license.

REP. TASH expressed opposition to the amendment. As a landowner, he had people who came and shot varmints. Outfitters should also be allowed to do this.

CHAIRMAN WAGNER asked **Mr. Sternberg** about **REP. MOLNAR's** concerns. **Mr. Sternberg** referred to the definition of an outfitter. A person who, for consideration, provided for any person to hunt, trap, capture, take, kill, pursue, or retrieve any varmint was considered an outfitter. If a person received consideration and provided a hunting service, that would be considered outfitting. Consequently, that person would be considered outfitting without a license. **CHAIRMAN WAGNER** said he would be considered an outfitter without a license if he took a group of people on a floating trip and they provided him with beer. **Mr. Sternberg** said yes, if he provided that service for consideration. The definition of an outfitter was related to the definition of consideration.

REP. FUCHS stated that was not the intent of the bill.

REP. MOLNAR said if he came across someone needing help to drag an elk to their truck and was offered $50 for the help, it would be illegal to help him. Watercraft were also included in the bill. This area of the bill was extremely broad and was government regulation "at its finest."

CHAIRMAN WAGNER asked **Mr. Melton** to address some of the concerns expressed by committee members. **Mr. Melton** said the language in the bill that was not underlined was existing language. He referred to the second half of the definition of an outfitter, "and who accompanies that person either part or all of the way on an expedition for any of these purposes or supervises a licensed guide or master guide in accompanying that person." A person would have to provide all of the equipment and vehicles as well as providing the services in order to be regarded as an outfitter. The other exception regarded a person who took people hunting on his own land. If a person approached a ranch owner and gave him $50 for allowing him to shoot a few gophers, no license would be required.

REP. WELLS mentioned that the word "retrieve" concerned him. It was new language.

Substitute Motion: REP. MOLNAR MOVED TO STRIKE THE LANGUAGE ON PAGE 2, LINES 24-29.

Discussion:

CHAIRMAN WAGNER asked if it would be easier task to redefine the word "consideration." **REP. MOLNAR** said no. This section received no comment and it appeared as if they were trying to "slide it through." He gave several instances of where he would need an outfitters license just to hunt varmints. It was this type of incremental growth that brought the bill before the committee. He believed it would not help, and the 1997 legislature would be reexamining the issue.

CHAIRMAN WAGNER asked **Mr. Melton** about the reason for the new language. **Mr. Melton** said that the old language could have been construed in ways that it was not intended. They attempted to draft specific language in order to give a clear idea of the criteria required for a license. Unlicensed outfitting has grown significantly. The updated definition was not intended to seize the person who was given a six pack of beer to help pull an animal out of the woods. He did not know how else language could be constructed so that loopholes would not be opened.

CHAIRMAN WAGNER said the committee appeared to have a few concerns about the bill and suggested action be deferred. **Mr. Melton** said "varmint" and "predator" language was not significant to the Board of Outfitter's intent. They wanted to identify the items and services that would be provided that would classify a person as an outfitter. The reason for that language was to close a loophole used by people claiming to be hunting those creatures when they were actually on a guided hunt. Another reason was for safety. More bullets were flying around when a person was hunting varmints.

REP. HARPER said the addition of the words, "facilities; camping equipment; vehicle, watercraft, or other conveyance" did not expand the definition of an outfitter. With this language, everyone was included. The language of "varmint" and "predator" was an expansion. **CHAIRMAN WAGNER** said that he had people offer to pick up the beer if he would take them on a float trip down the river. This could be construed as outfitting under the new language. **REP. HARPER** said that was not the intent.

REP. MOLNAR said that the underlined language was new, and some of it provided clarification. If this language was stricken, the definition would not be significantly changed. **Mr. Melton** said the additional language in the section was condensed from three or four other subsections. "Retrieval" could be an expansion but also could be construed as someone assisting another person locate an animal. "Varmint" and "predator" language was an expansion. The remaining language was clarification.

{Tape: 4; Side: A; Approx. Counter: 000; Comments: Lost about 2 minutes; had to get more tapes.}

REP. MOLNAR said one of the problems was identifying the rogue outfitter. Adding the language of varmints and predators would not help identify illegal outfitters. It could never be determined whether a person has a game animal tag in their pocket or not.

REP. HIBBARD asked **REP. MOLNAR** to clearly state his concern. **REP. MOLNAR** said his first amendment struck the word "varmint." After discussion with **Mr. Melton**, he decided to strike all of underlined language in lines 24-29 on page 2. He was very concerned that the definition of an outfitter was being expanded so that there were more things people could not do without a

license. **REP. HIBBARD** restated the concern saying that **REP. MOLNAR** was concerned that the activities he normally conducted for a six pack of beer or $50 would need an outfitters license. **REP. MOLNAR** said yes. **REP. HIBBARD** said the problem should be addressed directly and possibly draft a better definition of consideration. **REP. MOLNAR** said that was part of the problem. The definition was understood, but he expressed concern over the words used to describe it.

REP. HIBBARD asked **Mr. Melton** for comments regarding the definition of consideration. **Mr. Melton** said he did not know how to draft language that would permit some activities but not others. There were serious cases of unlicensed outfitting practices, more than enforcement could handle currently. He assured committee members there was no intent to pursue somebody exchanging beer or gas. The notion of providing professional services for consideration was the basis of every license requirement in the state, especially in professional and occupational licensing. He suggested that if there was concern over the broad definition of consideration, lines 8-9 that contained the definition should be stricken.

REP. WELLS knew of a few instances where a hunter paid another man $100 to drag his elk out of the woods by horse. He suggested that a $100 limit be placed in the definition of consideration. Locating was the same as hunting and he was still opposed to the word "retrieve" in the definition.

REP. SLITER said an assessment must be made of whether or not a person was making a business of hunting varmints. He wanted the record to show that it was not the committee's intent that consideration include the $50 or $100 one time a year occurrence. The intent of the legislation was that if someone wanted to open the business of hunting varmints and charge a fee for it, then an outfitter license would be needed.

REP. HARPER said it did not make sense to totally rewrite the codes of the state of Montana. The word consideration was used throughout the codes. He asked **REP. MOLNAR** to explain precisely the content of his amendment.

Substitute Motion/Vote: **REP. MOLNAR MOVED TO STRIKE THE WORDS, "RETRIEVE," "VARMINT," AND "PREDATOR" FROM THE BILL. Substitue motion failed 11 to 7 with REPS. WAGNER, REHBEIN, DEVANEY, FUCHS, MOLNAR, RANEY, and WELLS voting yes.**

Motion: **REP. SWANSON MOVED HB 196 DO PASS AS AMENDED.**

Discussion:

REP. SLITER asked if a motion was needed to show the intent of the committee.

Motion: **REP. SLITER MOVED THAT THE RECORD SHOW THAT THE COMMITTEE'S INTENT WAS TO DEAL WITH PROFESSIONAL OUTFITTERS OPERATING A BUSINESS AND NOT AMATEURS EXCHANGING A FEW DOLLARS, BEER, OR GAS ON INFREQUENT OCCASIONS.**

Discussion:

CHAIRMAN WAGNER asked **Mr. Sternberg** for comments. **Mr. Sternberg** said it was the committee's decision. It could be made in the form of a motion.

REP. HARPER commented that the minutes would reflect the entire discussion, including the motion. He said the record had been made throughout the discussion; a motion was not necessary to record the minutes.

Motion: **REP. SLITER MOVED THAT ON PAGE 2, LINE 20 TO ADD "AND WHO IS A PROFESSIONAL DOING BUSINESS."**

Discussion:

REP. SWANSON stated that the words "professional" and "business" would need to be defined. She suggested that the language be included in a preamble. **REP. SLITER** said that if the record showed their intent; that would be acceptable.

REP. HARPER said that the record would clearly show that "someone floating friends down the river or transporting their boat for beer or a tank of gas" was certainly not considered a professional outfitter.

REP. HIBBARD said the record would follow the entire committee discussion on the issue and indicate clearly the legislature's intent.

REP. SLITER withdrew his motions.

REPS. SWANSON and **HIBBARD** thanked **Mr. Sternberg, Mr. Melton** and the council members in the audience for all their work.

Motion/Vote: **REP. SWANSON MOVED HB 196 DO PASS AS AMENDED. Motion carried 16 to 1 with REP. PAVLOVICH voting no. REP. MOLNAR abstained from voting.**

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker: We, the committee on **Fish and Game** report that **House Bill 196** (first reading copy -- white) **do pass as amended.**

Signed: Douglas T. Wag
Doug Wagner, Chai

And, that such amendments read:

1. Title, line 6.
Strike: "MASTER"
Insert: "PROFESSIONAL"

2. Title, line 7.
Strike: "AREA OPERATING"
Insert: "OPERATIONS"

3. Title, line 9.
Strike: "MASTER"
Insert: "PROFESSIONAL"

4. Page 1, line 21.
Strike: "operating area" in two places
Insert: "operations"

5. Page 1, lines 22 and 24.
Strike: "master"
Insert: "professional"

6. Page 1, line 26.
Strike: "operating area"
Insert: "operations"

7. Page 1, line 27.
Strike: "commercial"

Committee Vote:
Yes 11, No 1

Insert: "hunting"
Following: "will"
Insert: "cause undue"
Following: "existing"
Insert: "hunting"

8. Page 2, line 6.
Strike: "any"
Insert: "some"

9. Page 2, lines 17 and 18.
Strike: subsection (7) in its entirety
Renumber: subsequent subsections

10. Page 3, line 13.
Following: line 12
Insert: "(10) "Professional guide" means a guide who has met experience, training, and testing qualifications for designation as a professional guide, as set by board rule."
Renumber: subsequent subsection

11. Page 3, line 25.
Strike: "master"
Insert: "professional"

12. Page 4, lines 4 and 8.
Strike: "master"
Insert: "professional"

13. Page 4, line 11.
Strike: "operating area"
Insert: "operations"

14. Page 4, line 16.
Strike: "master"
Insert: "professional"

15. Page 4, line 17.
Strike: "operating area"
Insert: "operations"
Following: "plans"
Insert: "involving hunting use"

16. Page 4, lines 18 and 19.
Following: "of"
Insert: "net client hunting use under"
Following: "an"
Insert: "outfitter's"

Following: "existing"
Strike: "operating area"
Insert: "operations"
Following: "will"
Strike: remainder of line 18 through "or" on line 19

17. Page 4, line 19.
Following: "with existing"
Insert: "hunting"
Following: "area"
Insert: ", constituting a threat to the public health, safety, or welfare"

18. Page 4, line 20.
Strike: first "operating area"
Insert: "operations"
Following: "of"
Strike: "an"
Insert: "net client hunting use under the"
Following: "existing"
Strike: "operating area"
Insert: "operations"

19. Page 4, line 21.
Following: "existing"
Insert: "hunting"

20. Page 4, lines 22 and 23.
Strike: "operating area"
Insert: "operations"
Following: "another licensed outfitter"
Strike: remainder of line 22 through "area" on line 23
Insert: "Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services."

21. Page 4, lines 25, 29, and 30.
Strike: "master"
Insert: "professional"

22. Page 5, lines 4, 6, and 16.
Strike: "master"
Insert: "professional"

23. Page 5, lines 17 through 20
Strike: subsection (8) in its entirety

24. Page 6, lines 11, 26, 27, and 29.
Strike: "master"
Insert: "professional"

25. Page 6, line 30.
Following: ";"
Insert: "and"

26. Page 7, lines 10 through 12.
Strike: "; and" on line 10 through "agency" on line 12

27. Page 7, lines 14, 19, and 29.
Strike: "master"
Insert: "professional"

28. Page 7, line 22.
Following: "~~shall~~"
Insert: "forms the basis for the outfitter's operations plan and"

29. Page 8, lines 2, 3, and 4.
Strike: "master"
Insert: "professional"

30. Page 8, line 13.
Strike: "an operating area plan that specifies"

31. Page 10, lines 2 and 10.
Strike: "master"
Insert: "professional"

32. Page 11, lines 11, 18, 20, and 29.
Strike: "master"
Insert: "professional"

33. Page 12, lines 8, 10, 15 in two places, 24, 25, 26, and 29.
Strike: "master"
Insert: "professional"

34. Page 13, lines 1, 2, 8, 10, 11, 12, 14, 15, 18, 19, and 25 in two places.
Strike: "master"
Insert: "professional"

-END-

EXHIBIT
DATE 2/2
HB 1

Amendments to House Bill No. 196
Introduced Reading Copy

Requested by Rep. Swanson
For the Committee on Fish & Game

Prepared by Doug Sternberg, Legislative Council
January 18, 1995

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Strike: "MASTER"
Insert: "PROFESSIONAL"

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Insert: "OPERATIONS"

3. Title, line 9.
Strike: "MASTER"
Insert: "PROFESSIONAL"

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Strike: "operating area" in two places
Insert: "operations"

5. Page 1, lines 22 and 24.
Strike: "master"
Insert: "professional"

6. Page 1, line 26.
Strike: "operating area"
Insert: "operations"

7. Page 1, line 27.
Strike: "commercial"
Insert: "hunting"
Following: "will"
Insert: "cause undue"
Following: "existing"
Insert: "hunting"

8. Page 2, line 6.
Strike: "any"
Insert: "some"

9. Page 2, lines 17 and 18.
Strike: subsection (7) in its entirety
Renumber: subsequent subsections

10. Page 3, line 13.
Following: line 12
Insert: "(10) "Professional guide" means a guide who has met experience, training, and testing qualifications for designation as a professional guide, as set by board rule

Renumber: subsequent subsection

11. Page 3, line 25.
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Strike: "operating area"
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Strike: "master"
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Following: "plans"
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Strike: "operating area"
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Following: "will"
Strike: remainder of line 18 through "or" on line 19

17. Page 4, line 19.
Following: "with existing"
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Following: "area"
Insert: ", constituting a threat to the public health, safety, or welfare"

18. Page 4, line 20.
Strike: first "operating area"
Insert: "operations"
Following: "of"
Strike: "an"
Insert: "net client hunting use under the"
Following: "existing"
Strike: "operating area"
Insert: "operations"

19. Page 4, line 21.
Following: "existing"
Insert: "hunting"

EXHIBIT 2
DATE 2-2-95
HB 196

20. Page 4, lines 22 and 23.
Strike: "operating area"
Insert: "operations"
Following: "another licensed outfitter"
Strike: remainder of line 22 through "area" on line 23

21. Page 4, lines 25, 29, and 30.
Strike: "master"
Insert: "professional"

22. Page 5, lines 4, 6, and 16.
Strike: "master"
Insert: "professional"

23. Page 5, lines 17 through 20
Strike: subsection (8) in its entirety

24. Page 6, lines 11, 26, 27, and 29.
Strike: "master"
Insert: "professional"

25. Page 6, line 30.
Following: ";"
Insert: "and"

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Strike: "; and" on line 10 through "agency" on line 12

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33. Page 12, lines 8, 10, 15 in two places, 24, 25, 26, and 29.
Strike: "master"
Insert: "professional"

34. Page 13, lines 1, 2, 8, 10, 11, 12, 14, 15, 18, 19, and 25 in two places.
Strike: "master"
Insert: "professional"

section of the bill dealing with landowner certificates and if the cap of 10 were reasonable.

MS. BAUCUS replied that the council had tried to get landowner-sponsors to come and speak at their meetings but only one came. As she remembered, the original intent of the landowner permits was for Montanans to get relatives back to their home state to hunt. She thought the cap of 10 was fair.

SENATOR FORRESTER asked if it would be detrimental to the bill if the committee removed the cap on landowner sponsors. **Ms. Baucus** said she thought anything changing the bill could cause the balance to be lost. Landowners can always get Montana hunters on their land if they have game problems.

(Tape: 2; Side: B)

SENATOR FORRESTER asked if **Ms. Baucus** could supply a list of landowner sponsors. **Ms. Baucus** told him it was in the packet furnished to him by **REPRESENTATIVE SWANSON (SEE EXHIBIT 1a)**. **SENATOR FORRESTER** commented that according to the list, a **Mr. Grosfield** had obtained 81.

CHAIRMAN MESAROS commented that landowners' acreages and game populations vary tremendously.

Closing by Sponsor:

REPRESENTATIVE SWANSON said there were no comparisons on the size of ranches or the habitat provided. She didn't know if a correlation existed. A high number of sponsored hunters was more likely to be correlated with the business being done. She thought the committee could see what the council had dealt with for 18 months.

The initial intent of the landowner sponsor permit was for a landowner to supplement his primary business which was agriculture. It was not intended that landowners become unlicensed outfitters. DFWP had nothing to do with this recommendation.

The council went all over the state to get ideas for this bill; she thought it had the potential of solving the problem. **SENATOR HERTEL** was on the advisory council and he offered to carry both bills on the floor.

SENATOR MESAROS commended the council's efforts.

HEARING ON HB 196

Opening Statement by Sponsor:

REPRESENTATIVE SWANSON told the committee she was carrying HB 196 by request of the Board of Outfitters in an attempt to better

regulate their industry. The bill clarifies and consolidates some of the definitions in current statute and adds to the definition of a professional guide.

In Section 19 the words "intend to" were changed to "must" to require that a client of an outfitter does hunt with the outfitter who sponsored him for a license.

Section 21 provides that the executive director and the investigators for the Board of Outfitters can become ex officio wardens.

She said **Lance Melton, Department of Commerce,** would further explain the reasons for the bill.

LANCE MELTON told the committee the Governor supports this bill and it was negotiated with all interested parties. **(SEE EXHIBIT 13).**

Proponents' Testimony:

MAX CHASE, Former Chairman, Board of Outfitters, said he had been a licensed outfitter for many years.

HB 196 lives up to the direction given the outfitters when the 1987 legislature moved them to the Department of Commerce and told them to regulate themselves. It took seven years to develop this bill to its present form. It is intended as consumer protection. He urged passage of HB 196.

DEAN SANGREY said Idaho had the same problems and had realized very positive benefits from similar legislation **(EXHIBIT #20).**

JEAN JOHNSON told the committee her industry needed this bill and hoped it would pass in its present form.

ROBIN CUNNINGHAM, Fly Fishing Outfitters, said his organization fully supported HB 196. It would benefit his business and his clients as well.

TODD KLICK, K Bar L Ranch, Augusta, supported the bill; it has been needed for many years **(EXHIBIT #21).**

PAT GRAHAM said the Board of Outfitters has helped the outfitting industry and he believed HB 196 represented the best interests of the public **(EXHIBIT #22).**

GARY FRITZ, Helena, stated that he was a licensed fishing guide and recently became a licensed fishing outfitter. He supported the requirement of documentation of competency and liked the idea of ex officio wardens.

KELLY FLYNN supported HB 196.

PAUL ROOS, a new member of the Board of Outfitters, also supported the bill. He liked the enforcement provisions of the bill because violations hurt the State of Montana. Unfortunately, there have been some bad actors. Some people accept clients, charge a fee, and have not gone through the regulatory process. He thought that was unfair. He did not like to see people leave the state unhappy because it would affect the ability of his industry to do business.

BOB BIRD, Private Contract Investigator for the Board of Outfitters, supported the bill in its entirety, but was particularly pleased with the sections relating to law enforcement **(EXHIBIT #23)**.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR KLAMPE commented that it still didn't sound as if the outfitters had given up anything. **Mr. Melton** said HB 195 put a temporary cap on the number of outfitters and HB 196 listed cases where people cannot hold a license.

SENATOR KLAMPE said the Board of Outfitters consists of five outfitters and two others. He asked if this bill would remedy that imbalance. **Mr. Melton** said neither bill changes the composition of the board. He thought the expertise of licensed professionals was necessary.

SENATOR KLAMPE stated that it seemed the bill was out of bounds on ex officio wardens. **Mr. Melton** replied that it only allowed those individuals to issue citations for violations that were discovered in the field and made law enforcement more effective.

SENATOR CRIPPEN remarked that **SENATOR KLAMPE** brought up a good point. He was concerned about the people who would qualify as ex officio wardens and their capabilities. **Mr. Graham** said the objective was to allow retired game wardens to be ex officio wardens without being required to maintain their status as peace officers. **SENATOR CRIPPEN** asked if they were ever peace officers. **Mr. Graham** responded that they were.

SENATOR CRIPPEN asked if they were allowed to make arrests, since they would be allowed to issue citations. **Mr. Graham** said he wasn't sure he could answer that. They can't carry guns unless specifically authorized, but they can issue citations. **Mr. Melton** stated that Department of Commerce investigators are private contractors. They cannot issue citations at present, but would be allowed to under HB 196.

SENATOR CRIPPEN asked what qualifications were necessary for the executive director of the Board of Outfitters. **Mr. Melton** stated

that the executive director's qualifications were not addressed in this bill. The current statute specifies that it is his duty to investigate licensed outfitters for potential violations.

SENATOR CRIPPEN said it appeared this person would be a quasi peace officer of some type and he didn't think it was a good idea. **Mr. Melton** told **SENATOR CRIPPEN** that **Bud Solmonsson,** the present executive director was present and would be glad to outline his qualifications if the committee were interested.

SENATOR SPRAGUE stated that DFWP had talked about additional FTE's. That would be difficult to sell on the Senate floor, given current fiscal responsibilities.

REPRESENTATIVE SWANSON replied that the additional FTE's were included in the Governor's budget - 3.25 FTE's comprised of 2.0 investigators and 1.25 in administrative support. These positions would not be funded out of state monies but through outfitters' fees.

SENATOR SPRAGUE stated that it appeared this bill would create a new police unit and asked what the added revenue would produce. **Mr. Melton** responded that he didn't think there was any way to quantify that. The idea was to put people in the field who could issue citations on the spot; it was not to create a new police unit.

Closing by Sponsor:

REPRESENTATIVE SWANSON thanked the committee for a good hearing.

Informational Testimony:

Two letters of support for HB 195 were received after the hearing **(EXHIBITS 24 & 25).** Twenty letters of opposition to HB 195 were also received after the hearing **(EXHIBITS #26 THROUGH 45).** One letter of support for HB 196 was received **(EXHIBIT #46).**

(This meeting is recorded on both sides of two 60-minute tapes.)

MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE

ROLL CALL DATE 3/09/95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
WILLIAM CRISMORE	X		
JOHN HERTEL	X		
KEN MILLER	X		
MIKE SPRAGUE	X		
GARY FORRESTER	X		
JUDY JACOBSON	X		
TERRY KLAMPE	X		
BOB PIPINICH		X	
AL BISHOP, VICE CHAIRMAN	X		
KEN MESAROS, CHAIRMAN	X		

SEN:1995
wp.rollcall.man
CS-09

SENATE FISH AND GAME
EXHIBIT NO. 13
DATE 3/09/95
BILL NO. HB 196

MONTANA
DEPARTMENT OF COMMERCE

Professional and Occupational Licensing Bureau
111 North Jackson PO Box 200513
Helena, MT 59620-0513

Phone: (406) 444-3737
FAX: (406) 444-1667
TDD: (406) 444-2978

March 8, 1995

Chairman Mesaros, Committee Members
Senate Fish and Game Committee

Subject: House Bill 196

Dear Chairman Mesaros and Committee Members:

I am Lance Melton. I am an attorney with the Department of Commerce, here on behalf of the Board of Outfitters to speak in favor of House Bill 196. House Bill 196 is a bill presented by request of the regulatory board that oversees the outfitting industry. House Bill 196 has been negotiated with the affected individuals, which is demonstrated by the endorsement of the private associations representing both land based and water based outfitters and guides.

House Bill 196 has the approval of the Governor's Office in its entirety, which was obtained through the executive planning process. In addition, the Governor has re-confirmed his support for major portions of House Bill 196 through his endorsement of the final proposal of the Governor's Task Force on Private Lands/Public Wildlife. The final task force proposal endorses every aspect of the bill with the exception of the new classification for "professional" guide. The Task Force was not opposed to the classification for professional guide, but did not address the issue in its public hearing process. The remainder of House Bill 196 is addressed and endorsed in the final recommendations of the Task Force.

House Bill 196 had considerable bipartisan support in the House, passing on a 63-37 vote on Third Reading. There were amendments to the original version of the Bill that were adopted by the House Fish and Game Committee, and by the House on Second Reading. These amendments do not substantially alter the original purpose or effect of House Bill 196, and the Board has acknowledged that these amendments were appropriate. The version of House Bill 196 that you have before you today is ready for your consideration without further amendments.

House Bill 196 provides the regulatory board with the necessary authority and statutory guidelines to effectively protect the public health, welfare and safety from unethical and illegal outfitting. This authority is a cornerstone of the final recommendations of the Task Force, and is crucial to the balance struck between the sportsmen, landowners and outfitters under House Bill 195.

On behalf of the Board of Outfitters and the Department of Commerce, we respectfully request that this Committee issue a "do concur" recommendation to the full Senate. As the drafter of House Bill 196, I am available to answer any legal questions regarding the bill. Bud Solmonsson, the Executive Director for the regulatory board, is also here to answer any questions regarding the regulatory program.

Sincerely,

Lance L. Melton
Legal Counsel, Department of Commerce

"Working Together to Make It Work"

GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE

RECOMMENDATIONS TO GOVERNOR MARC RACICOT

December 6, 1994

EXHIBIT 13
DATE 3-9-95
HB 195

III. RECOMMENDATIONS FOR MAINTAINING A VIABLE HUNTING OUTFITTING INDUSTRY

In dealing with the issue of maintaining a viable hunting outfitting industry in Montana, the Private Land/Public Wildlife Advisory Council recognizes that solutions to hunting outfitting issues must provide, in part, answers to the other issues facing the council. It is important to emphasize that the Council's proposal is an interwoven package. The long-term result of the following recommendations will be better control of the growth of the hunting outfitting industry while simultaneously providing viability. The following recommendations also propose a funding mechanism for increased tangible benefits to landowners who allow reasonable hunting access. Increased access for non-outfitted hunters to private lands is thus provided.

•1) MANAGEMENT OF OUTFITTING AND RESOLUTION OF CONFLICT

R12

The Council recommends that the Board of Outfitters have authority to develop rules for review of new operating-area plans and expansions to existing operating-area plans to determine if the intended use would present an undue conflict with other uses of a particular area. This could allow the Board of Outfitters to tie a license to a specific geographical operating area and could provide for more effective management of outfitters to reduce outfitter/sportsperson conflicts. In addition, the Council recommends that the Board of Outfitters carefully review the criteria and requirements for licensing outfitters in order to stabilize the industry and to preserve public health, safety, morals, and welfare.

In order to maintain the total number of licensed outfitters at the 1994 level the Council urges the Legislature to impose a statutory moratorium on the number of outfitter licenses for no more than 5 years. This would be done to allow time to evaluate the impacts on the wildlife resource and public welfare as a result of creating a variable-priced outfitter client hunting license (see R-14 on page 14) and changing the outfitter licenses set-aside program. After the effective date of moratorium approval, the state will issue no additional outfitter licenses. Special criteria for the sale of outfitting businesses during the moratorium must be developed by the Montana Board of Outfitters.

•2) NONRESIDENT HUNTERS SPONSORED BY AN OUTFITTER FOR THE OUTFITTER SET-ASIDE LICENSE MUST HUNT BIG GAME WITH THAT OUTFITTER

R13

Current law states the nonresident hunter sponsored by a licensed outfitter for the outfitter set-aside drawing "must intend" to hunt with that outfitter. The Council recommends that Montana law (87-2-505, 87-2-510 AND 87-2-511) be amended to state that a nonresident hunter sponsored by a licensed outfitter must hunt big game with the licensed outfitter who certifies the nonresident for the set-aside drawing or hunt with a substitute licensed outfitter upon written approval of the Board of Outfitters. If the nonresident hunter chooses to hunt one of the big game species on his/her B-10 Combination Big Game License without the services of his/her

sponsoring outfitter, then that hunter must hunt with another licensed outfitter. Any special deer or elk permits or tags secured as a result of obtaining a nonresident combination license would be valid only if the hunter hunts with a licensed outfitter. In addition, the Council recommends that clients must hunt within the licensed outfitters' specific operating areas. (This provision would eliminate the possibility that a client could hunt some big game with a licensed outfitter and could also hunt big game in other areas of Montana in competition with the rest of the hunting public. It also ensures that hunters who utilize the outfitter set-aside pool enlist their sponsoring licensed outfitter's services or not hunt. However, nonresident hunters who do not want to limit their hunting opportunities to those provided by their licensed outfitter may choose to apply for a hunting license from the general license pool for nonresidents. A hunter with a license from the general license pool could book a licensed outfitter for one portion of a hunt and hunt independently for the other portion.)

3) VARIABLE-PRICED NONRESIDENT HUNTING OUTFITTER CLIENT LICENSES

The Council recommends that legislation be enacted to establish a variable-pricing structure for nonresident hunting outfitter sponsored Big Game Combination and Deer Combination licenses.

Structuring the licenses this way could accomplish the following:

- Maintain stability in the outfitting industry.
- Increase competition between outfitters, thus limiting growth in the industry.
- Provide money to fund public-hunting access while maintaining lower priced licenses for other nonresident hunters.
- Maintain the current level of outfitter clients.

Currently, hunters or outfitters submit applications for licenses. A computerized drawing determines who receives a license because there are more applications than licenses available. Outfitters therefore can not be certain each client booked will receive a license. Thus, the incentive is for outfitters to lobby to increase the number of licenses available as the primary means to stabilize or increase their business.

Under this proposal, nonresident hunters who book with an outfitter would be able to purchase a license during a limited time period each spring. The price of the licenses would vary based on demand, to ensure an average over a 5 year period of 5,600 Big Game Combination Licenses and 2,000 Deer Combination Licenses (fishing and upland gamebird license are included in each combination license).

sponsoring outfitter, then that hunter must hunt with another licensed outfitter. Any special deer or elk permits or tags secured as a result of obtaining a nonresident combination license would be valid only if the hunter hunts with a licensed outfitter. In addition, the Council recommends that clients must hunt within the licensed outfitters' specific operating areas. (This provision would eliminate the possibility that a client could hunt some big game with a licensed outfitter and could also hunt big game in other areas of Montana in competition with the rest of the hunting public. It also ensures that hunters who utilize the outfitter set-aside pool enlist their sponsoring licensed outfitter's services or not hunt. However, nonresident hunters who do not want to limit their hunting opportunities to those provided by their licensed outfitter may choose to apply for a hunting license from the general license pool for nonresidents. A hunter with a license from the general license pool could book a licensed outfitter for one portion of a hunt and hunt independently for the other portion.)

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4) FUNDS GENERATED FROM VARIABLE-PRICED LICENSES WOULD BE USED FOR INCREASED PUBLIC ACCESS

R15

EXHIBIT 12
DATE 2-9-95
HB 195

The nonresident, outfitter-sponsored, and variably priced 5,600 Big Game Combination Licenses (or B-10 licenses), and the nonresident, variably priced outfitter-sponsored, 2,000 Deer Combination Licenses (or B-11 licenses), would create increased revenue by being sold at a higher price than the general nonresident licenses. General B10 licenses for nonresidents not booked with an outfitter would be left at the current price of $475. General B-11 licenses would remain at $245. The Council recommends that FWP develop a "Private Land/Public Wildlife" program for funds generated via variable-priced licenses. Increased revenues would be used to fund the landowner benefits portion of the enhanced Block Management Program and other recommendations. This "Private Land/Public Wildlife" program would be administered and implemented by FWP through the enhanced Block Management Program (see R1, Page 7).

If the variable-priced B-10 license costs each outfitted client an additional $150, and if all 5,600 licenses are sold, there would be $840,000 generated for the program that provides tangible benefits to landowners who allow public-hunting access. If the variable-priced B-11 license costs each outfitted client an additional $150, and if all 2,000 licenses are sold, there would be $300,000 generated.

The goal for this enhancement to Block Management is to add an estimated additional 2 million acres of private land to the Block Management program.

5) REDUCE NUMBERS OF NONRESIDENT DEER/ELK COMBO LICENSES AND INCREASE NUMBER OF NONRESIDENT DEER LICENSES.

R16

Reduce the nonresident outfitter set-aside B-10 Big Game Combination Licenses (deer/elk) from 5,600 to 5,500. The total nonresident Big Game Combination Licenses state-wide would still be 17,000. Increase the nonresident nonoutfitted B-10 Big Game Combination Licenses from 11,400 to 11,500.

Increase the number of B-11 nonresident Deer Combination (deer/fishing) Licenses set aside for outfitted clients by 300 (from 2,000 to 2,300). Increase the number of B-11 nonresident nonoutfitted Deer Combination by 300 (from 2,000 to 2,300). Landowner sponsored B-11 nonresident deer hunting licenses would remain at 2,000. Thus, the total number of nonresident deer licenses state-wide would increase from 6,000 to 6,600.

(Note: if this recommendation is approved, it would affect the numbers of variable-priced licenses accordingly that are shown in the previous recommendation, R-15).

*6) INCREASE AUTHORITY, FUNDING & PERSONNEL FOR BOARD OF OUTFITTERS

R17

The Council recommends that legislation be enacted to increase the authority, funding, and FTEs (Full-Time Equivalent Personnel) for the Board of Outfitters. For example, this increased authority would prevent circumvention of fines and provide board personnel legal powers to issue citations. The number of FTEs to be added would be 3.20. Funding for the Board of Outfitters comes from fees charged to outfitters and guides and funding for this increase should be drawn from the same source.

STATE OF IDAHO
OUTFITTERS & GUIDES
LICENSING BOARD

SENATE FISH AND GAME
EXHIBIT NO. 20
DATE 3/09/95
BILL NO. HB 196

Governor
PHILIP E BATT

Chairman
DALE BARD
Midvale

Members
JOHN A K GARNER
Lewiston

LEO CRANE
Orofino

DIANA HAINES
Cascade

TOM KOHLHICKY
Grangeville

Executive Director
DEAN SANGREY

Supervisor, Education and Law Enforcement
WILLIAM G. YETSEY

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"Helping Protect Idaho's Natural Resources"

March 9, 1995

Chairman Mesaros
Committee Members
Senate Fish & Game Committee

Dear Chairman Mesaros and Committee Members:

My name is Dean Sangrey, Executive Director of the Idaho Outfitters & Guides Licensing Board.

I have come here today to add our support for House Bill 196.

Idaho has gone through many of the same issues that your state is experiencing now. It is commendable that you recognize the need to adequately address these critical problems facing your regulatory licensing board. Idaho faced many of these same outfitting and guiding concerns back in the late 1950's and has since realized very positive benefits as a result of similar legislation.

We have found it is essential and very helpful being able to work closely with our neighbors in Montana and Wyoming in addressing similar regulatory issues. I'm aware that Wyoming has also recently passed similar legislation giving their licensing board more authority and additional resources to perform their mandate.

I urge you to pass this legislation, thus giving the Montana Board of Outfitters the necessary means to effectively regulate this important public oriented industry.

Thank you for your time and consideration in this very important matter.

Respectfully,

Dean Sangrey
Executive Director

SENATE FISH AND GAME
EXHIBIT NO. 21
DATE 3/09/95
BILL NO. HB 196

Senate Fish and Game Committee
Hearing H B 196

Mr Chairman and Committee Members

My name is Todd Klick . I am hear today to voice my support for H B 196 I represent the K bar L Ranch, The Klick family and Dale Neal , a long time guide who could not be hear today.

H B 196 has been needed for many years. The public lands and the resources within will be the losers if this bill is not passed. The Outfitting industry as whole and its integrity into Montana s future will suffer if this bill is not passed. If we wait one more legislative session it will be too late. This bill is not just a companion bill for H B 195

This bill brings definition to The Outfitting Industry along with controls and regulations. These are items which have been absent until this opportunity today. The enforcement capabilities of this bill are also needed as no other agencies want the full time duty This bill will however give guidelines to the enforcement depts of the National Forest, and Dept Fish, Wildlife and Parks. The three agencies will be able to better cordinate there efforts.

Those that are opposed to this bill , must be operating on the outside of there legitamate operations plan as this bill does not effect the honest legal operators.

In closing I cannot stress enough how important this bill is to the Outfitting Industry. Thank You

Todd Klick K Bar L Ranch
Box 287
Augusta , Mont. 59410

SENATE FISH AND GAME
EXHIBIT NO. 22
DATE 3/09/95
BILL NO. HB 196

THB196.SP

House Bill No. 196
March 9, 1995
Testimony by Pat Graham
Montana Fish, Wildlife & Parks
before the Senate Fish and Game Committee

Montana Fish, Wildlife & Parks offers support for the Board of Outfitter legislation, HB 196. The Board of Outfitters has evolved significantly since its creation in 1987 and has taken some major steps in increasing its ability to regulate the outfitting industry. Legislation in the last session created the executive director position for the board which we believe has increased the administrative capability of the board and made it more responsive to the public. We believe that HB 196 represents the continuation of this evolution and is in the best interest of the public.

FWP has worked closely with the board since its creation and have a representative on the board. Our law enforcement personnel have provided extensive support to the board in the investigation of outfitting violations and the board has provided funding to our Department to compensate for these efforts.

We believe that the proposed additions to the powers and duties of the board in Section 3, 5d(37-47-201) will allow the board to draft rules that provide a means of evaluating new or expanded landbased outfitting use based on conflicts with existing use is a necessary change. This has been supported by the Governor's Council on Private Lands/Public Wildlife and would be an important step in resolving conflicts between outfitted and non-outfitted hunters on public lands.

We support all of the proposed changes in the bill that will allow the board to more effectively deal with illegal outfitting and violations of the board statutes. We also support the inclusion of board investigators as ex-officio game wardens in Section 21. Ex-officio status will enable the investigators to conduct more adequate investigations and to issue citations for violations of fish, wildlife and parks statutes.

Thank you for the opportunity to testify today, and I urge your passage of HB 196.

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DATE 3/09/95
BILL NO. HB 196

TH8196.SP

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March 9, 1995
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SENATE FISH AND GAME
EXHIBIT NO. 23
DATE 3/09/95
BILL NO. HB 196

Testimony for House Bill 196
Senate Fish and Game Committee
3 P.M. March 9, 1995

Mr. Chairman and Members of the Committee;

I am Bob Bird, private contract investigator for the Montana board of Outfitters. I reside in Helena. I am here to testify in support of HB 196. While I support HB 196 in its entirety, my comments today only address the provisions of sections 20 and 21.

Being a retired Montana Peace Officer, a contract position is substantially more beneficial for me than becoming a state employee. However, I believe it is more efficient and productive having these services provided by state employees.

As a contractor we are asked to enforce statutes and investigate violations without the basic legal authority to do so, particularly where unlicensed guides and outfitters are involved. Getting a simple vehicle registration can be difficult, often requiring the assistance of a peace officer.

Creating employee status for the investigator's positions and amending the Fish, Wildlife and Parks statutes to allow for appointment of qualified investigators as ex officio wardens would provide the necessary authority to work more effectively.

Passage of HB 196 will not create a new category of peace officers or require certification of investigators by the Montana Board of Crime Control. It will provide investigators much needed identity and credibility with bordering states, other State and Federal agencies, and law enforcement officers. This might also provide the opportunity for two-way radio communications in the field with other agencies and officers, enhancing efficiency and cooperation.

It will provide investigators with the authority to check hunting and fishing licenses or other identification of recreationalists in the field. Investigators could issue notices to appear for violations of the Fish Wildlife and Parks and Outfitter statutes.

I urge your passage of HB 196

SENATE FISH AND GAME
EXHIBIT NO. 46
DATE 3/09
BILL NO HB 196

D. Brent Jones
Licensed Private Investigator
531 Broadway
Helena, Montana 59601
(406) 442-3786

To: Chairman Mesaros
Committee Members
Senate Fish and Game Committee

From: D. Brent Jones
Licensed Private Investigator

Re: House Bill 196

Date: March 9, 1995

My name is Brent Jones. I am a private investigator licensed by the State of Montana. I contract on an independent basis with the Department of Commerce to conduct investigations for the Montana Board of Outfitters. I feel that I am in a precarious position due to my status as an independent contractor. The investigations that I conduct require that I work with state and federal law enforcement agencies. I have had my credibility and loyalty questioned, and have been scrutinized with a rent-a-cop attitude by some agencies and individuals due to my status as an independent contractor. At present, I do not have the authority to enforce any laws which regulate the outfitting industry. My counterparts in Idaho and Wyoming, on the other hand, are employees and sworn law enforcement officers.

The outfitting industry in Montana continues to grow. Violations and non-compliance by licensed and unlicensed outfitters continue to escalate. I realize if this bill passes it could effect my contract with the Department of Commerce. I urge you, however, to pass this bill giving the Montana Board of Outfitters authority to enforce their own regulations and status as well as creating credibility for the Department.

SENATOR GROSFIELD stated that he also had some comments on HB 122, currently tabled by the committee. HB 122 was **REPRESENTATIVE RANEY'S** bill directing the Department of Fish, Wildlife & Parks (DFWP) to initiate a public process on development of fishing access sites and state parks. The bill was drafted because of the development at Dailey Lake.

The committee tabled the bill because it was awkwardly written. **REPRESENTATIVE RANEY** had asked **SENATOR GROSFIELD** to look at the bill, and he had done that and offered amendments. He asked that HB 122 be removed from the table because the amendments take a different approach. **SENATOR GROSFIELD** offered to carry the bill on the floor it were taken from the table.

EXECUTIVE ACTION ON HB 196

SENATOR BRUCE CRIPPEN, SD #10, BILLINGS, asked if there were any proposed amendments to HB 196. **ANDREA MERRILL, Legislative Council Staff,** responded that there weren't; any coordination necessary would take place in HB 518.

SENATOR CRIPPEN said he had previously had some reservations about who should be appointed as an ex officio warden. His concerns had been satisfied and he now felt that an appropriate training course was provided by the department.

Motion:

SENATOR CRIPPEN MOVED TO CONCUR WITH HB 196.

Discussion:

SENATOR TERRY KLAMPE, SD #31, FLORENCE, asked how ex officio wardens received this training, or if it were only implied. **SENATOR CRIPPEN** replied that some were formerly peace officers. He had also been concerned about the executive director of the Board of Outfitters, but **Mr. Solmonsson** had received the proper training. His problem had been with any future ex officio wardens, as he wanted to be sure those people would be well trained.

SENATOR BOB PIPINICH, SD #29, MISSOULA, asked if the training **SENATOR CRIPPEN** had referred to were covered in this bill or another bill.

LANCE MELTON, Attorney for the Board of Outfitters, Department of Commerce, said he understood DFWP had a specified training program and he thought the Board of Outfitters' staff would be required to take that training.

SENATOR KLAMPE commented that a training program should be in force so that future ex officio wardens would be properly trained. **Mr. Melton** said he thought that would be done.

Vote:

ALL COMMITTEE MEMBERS VOTED AYE ON THE MOTION TO CONCUR ON HB 196 AND THE MOTION CARRIED UNANIMOUSLY.

DISCUSSION ON HB 195

CHAIRMAN MESAROS stated, for the record, that he was not comfortable in acting on HB 195 without more discussion. He thought HB 195 was a very important bill and he had invited **REPRESENTATIVE SWANSON**, members of the council, and other interested individuals to attend and answer questions.,

SENATOR PIPINICH MOVED TO CONCUR ON HB 195.

SENATOR JOHN HERTEL, SD #47, MOORE, told the committee four different amendments had been proposed to HB 195, and he asked **REPRESENTATIVE SWANSON** to explain them.

SENATOR WILLIAM CRISMORE, SD #41, LIBBY, said he also had two amendments.

CHAIRMAN MESAROS asked that all amendments be distributed to the committee members.

MS. MERRILL stated that she had prepared a gray bill showing the proposed text of the entire bill **(EXHIBIT #1)**.

CHAIRMAN MESAROS commented that he understood the four amendments mentioned by **SENATOR HERTEL** were incorporated into the gray bill, but not the amendments mentioned by **SENATOR CRISMORE. Ms. Merrill** replied that was correct.

SENATOR PIPINICH asked if the amendments in the gray bill were the technical amendments brought up at the March 9 hearing. **CHAIRMAN MESAROS** said some were, but the second amendment was a substantive change. He asked **REPRESENTATIVE SWANSON** to go through the amendments and explain them to the committee.

REPRESENTATIVE EMILY SWANSON, HD #30, BOZEMAN, said she appreciated the opportunity to come back to the committee and follow through on the process.

REPRESENTATIVE SWANSON said amendment No. 19501 was a coordination amendment with HB 196.

Amendment No. 19502 addressed an issue **SENATOR CRIPPEN** asked about. He had been concerned about the language "public recreation," and this amendment made it clear that the bill referred to hunting access only.

Amendment 19503 stated that people who had already applied for an outfitter's license and whose applications were still in the

SENATE STANDING COMMITTEE REPORT

March 17, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration HB 196 (third reading copy -- blue), respectfully report that HB 196 be concurred in.

Signed: Ken Mesaros
Senator Ken Mesaros, Chair

Amd. Coord.
SA Sec. of Senate

SEN. Hertel
Senator Carrying Bill

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